

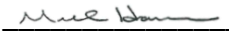


**CEDAR PARK POLICE DEPARTMENT
GENERAL ORDER**

Complaints and Internal Investigations

NUMBER: 2.04.01

EFFECTIVE: 02-01-2014

APPROVED: 
Chief of Police

I. POLICY

It is the policy of the Cedar Park Police Department (“Department”) that all internal and external complaints of misconduct shall be thoroughly investigated and resolved. The public, and members, shall be assured of receiving fair, honest, and equal interactions.

II. PURPOSE

The Cedar Park Police Department has a responsibility to itself and to the community it serves to promote an accountable level of service and integrity. It is the purpose of this policy to inform all interested persons of the procedures that will be followed to initiate, record, investigate, and resolve complaints against members of the Cedar Park Police Department.

III. DISCUSSION

The Cedar Park Police Department recognizes the critical job that the members of this Department are tasked with during all interactions with members of the community. Any allegation received will be investigated, regardless of the source. We recognize the fluid nature of law enforcement, the importance of scene safety, and the rapid capability of critical change within a scene. It is expected that all members will ensure their behavior reflects the mission, vision, and values of the Department.

Nothing written or implied in this order is intended to restrict the normal duties and obligations of supervisors. Supervisors must ask fact finding questions to properly evaluate, monitor, train, and professionally develop members under their supervision. Such fact finding questions do not constitute an investigation. In the event that a supervisory inquiry or other supervisory observation concludes potential policy violations, the individual will be notified of the complaint and either receive corrective measures, as determined by the supervisor, or will be given notice of an internal affairs investigation.

IV. DEFINITIONS

COMPLAINT – An allegation from any person alleging misconduct by the Department, or a member of the Department, whether on or off-duty, that is determined to be a violation of policy or law, or requires further investigation.

- This does not include a complainant’s disagreement with the application of law which is properly decided in a court of law.

COMPLAINT DISPOSITION –

- **EXONERATED** – A complaint that was investigated and determined to have occurred; however, the agency or member acted appropriately and within policy.
- **NOT SUSTAINED COMPLAINT** – The investigation failed to discover sufficient evidence to clearly prove or disprove if the allegation made occurred.
- **SUSTAINED COMPLAINT** – A complaint that has been investigated and found by the preponderance of evidence to have occurred. Allegations are sustained based only on the facts determined during an investigation by a preponderance of the factual evidence.
- **UNFOUNDED COMPLAINT** – A complaint that has been investigated and found not to be valid (the incident did not occur).

COMPLAINANT – Person making a complaint. An anonymous complaint may be received in oral or written form and will be investigated to the same extent as all other complaints.

CONFIDENTIAL CITIZEN COMPLAINT FORM – A form provided to citizens when requesting to file a complaint on a Department member. This form was created as a convenience to those desiring to file a written complaint and is not required.

COUNSELING – Informal guidance, coaching, correction, and direction to ensure members realize their behavior or work performance is substandard and understands what is expected. These conversations are non-punitive to assist members on improving their performance.

INTERNAL INVESTIGATION – A strictly confidential, formal investigation into the actions of a member or members of the Department, generally completed by a member of the Professional Standards Division.

INTERNAL INVESTIGATION CASE FILE – A file containing the forms, statements, documents, evidence, etc. affiliated with a complaint.

LETTER OF INSTRUCTION – A formal document issued from a supervisor to a subordinate member resulting from the member’s misconduct or negative performance.

LETTER OF REPRIMAND – A formal document issued from a supervisor or higher rank to a subordinate member resulting from the member’s serious misconduct or continued negative performance.

MISCONDUCT – An act, behavior, or failure to take required action. Not conforming to a general order, City policy, procedure, directive, or prevailing standard of the Department. Failure to comply with any City,

Department, Texas Local Government Code 143, Meet and Confer agreement, procedures, directives, or any Federal, State, or municipal laws. Incidents may include, but are not limited to:

- Those reported by citizens, including those detained.
- Those observed by officers, supervisors, civilian members, or commanding officers.
- Those uncovered by routine police intelligence activities or investigations.
- Those reported by members of the Department to supervisors or command staff.
- Those occurring off-duty and coming to the attention of the Department.

V. INITIAL COMPLAINT PROCESS

1. A complaint may be received or initiated by any person or member.
2. Complaints may be received in writing, in person, over the phone, and may be lodged anonymously or by any other means.
3. All members shall provide assistance to those who express the desire to lodge complaints against any member(s) of this Department or make allegations to any member. This includes, but is not limited to:
 - a. Calling a supervisor to the scene to document the complaint;
 - b. Providing referrals to individuals and/or locations where such complaints may be made in person; or
 - c. Explaining options to lodge a complaint, to include:
 - i. Filing a complaint online through the Police Department website;
 - ii. Filing out a Citizen Complaint Form and turning it in to any Department member; or
 - iii. Alternative methods for lodging a complaint, such as by phone, email, or mail.
4. Any Department member that receives a citizen complaint form shall process it through their chain of command so that it can be evaluated by the direct supervisor or a member of command staff.
5. Members should utilize their chain of command to report complaints and/or violations.
6. Members may report complaints directly to the Professional Standards Division if the violation involves a person within their immediate chain of command.
7. All complaints shall be documented. Documented complaints shall include, at a minimum:
 - a. date and time the complaint was made,
 - b. method the complaint was received,
 - c. type of complaint,
 - d. nature of complaint,
 - e. complainant information and contact information (if provided, if not list REFUSED or ANONYMOUS),
 - f. names of members alleged to be involved,
 - g. name of and contact information of witnesses (if possible), and
 - h. any action taken by officers or supervisors to attempt to resolve the complaint.
8. All complaints shall be forwarded through the chain of command to the individual's direct supervisor for processing and investigating.

Complex investigations or those that attract media attention or liability of the member or Department may be referred to Professional Standards for investigation as determined by members of command staff.

A Department member shall not interfere, dissuade, intimidate, or threaten any person in any manner to prevent or discourage them from filing a lawful complaint against a member of this Department. Any attempt to do so shall constitute misconduct. This does not include legitimate attempts to resolve the complaint. Members may attempt to resolve a simple question that has potential to turn into a complaint (i.e., "Why was a patrol car parked in a fire zone?"), however if the complainant is not satisfied with an answer to the question, they should be referred to a supervisor to process the complaint.

VI. RESPONSIBILITY TO REPORT

Member Responsibility – It is the responsibility of all members to recognize when another member displays any form of misconduct and to report it to their supervisor. It is the responsibility of all members to direct any person wanting to file a complaint to the on-duty supervisor whenever possible.

Special note: Some situations will warrant a member taking a complaint instead of a supervisor (irate citizens, time constraints, etc.). All members shall ensure that any complaints received are forwarded to a supervisor in a timely manner.

Supervisor Responsibility – It is the responsibility of all supervisors to appropriately document and process complaints received.

VII. SUPERVISOR INVESTIGATION CRITERIA

Supervisors are responsible for investigating the following:

- Complaints, internal and external, until such point as they are resolved or forwarded through the chain for internal investigation.
- All unacceptable conduct or performance until it is determined that it meets the level of an internal investigation.
- Non-grievous instances of misconduct (rudeness, tardiness, etc.).

Supervisors are responsible for rectifying unacceptable conduct or performance unless an internal investigation is initiated. Options available for supervisors to correct conduct and performance issues are detailed in [GO 2.25.01 Supervisor Authority](#) and HR Policy regarding Disciplinary Action.

Complaints received by supervisors shall be properly documented in the approved records management system and either closed out with an appropriate complaint disposition, referred to a more appropriate supervisor, or forwarded up the chain of command for review. Complaint records are for official internal use only, on a need-to-know basis. First line supervisors are authorized to view entries in the module for members within their scope of authority.

Supervisors shall update the complaint with the results and any associated discipline or corrective actions taken. Additionally, the status shall be updated at the conclusion of the investigation with one of the following:

1. Sustained
2. Not sustained
3. Unfounded
4. Exonerated

In the event the supervisor is unable to determine the appropriate complaint disposition, or in the event the supervisor feels a complaint needs investigated further, the supervisor will attempt to obtain all the necessary information related to the complaint. Occasionally this will involve obtaining written statements of actions from the involved member or other involved persons. The supervisor shall forward the information, via memo, through their chain of command. The chain of command, including the Chief of Police, shall determine the extent that the complaint shall be investigated, and refer it to an appropriate division for follow up. If an internal investigation is launched, all information will move to the internal investigation case file and remain secured with limited access.

VIII. COMMAND NOTIFICATION

If any supervisor receives any of the following, notification shall be made to a member of Command Staff as soon as practical, but no later than 24 hours after discovery, to ensure the Chief of Police or designee is notified:

1. Any complaint stemming from an incident with potential media attention
2. Any complaint where there is potential Department or member liability
3. Any complaint where there is a severe alleged act of misconduct

It is the responsibility of the Command Staff member receiving the report to notify the Chief of Police or designee immediately upon receiving the information.

For all other complaints, the Chief of Police will be notified through routine reporting processes, and at a minimum will receive an annual a summary of citizen complaints, including dispositions.

IX. EMERGENCY ADMINISTRATIVE LEAVE

Command Staff Member Responsibilities – A command staff member is authorized to immediately relieve a Department member of duty pursuant to a severe alleged act of misconduct, or if the command staff member has just cause to believe that a member continuing work would potentially discredit or impair the operations of the Department. A member placed on administrative leave shall receive full pay and benefits.

A command staff member imposing emergency administrative leave shall notify the member of their responsibilities. The command staff member will ensure that appropriate documentation of the incident is promptly completed.

Member Responsibilities – If a member is relieved of duty under these circumstances, they shall remain on leave until notified to return to duty by the Chief of Police or designee. Said member's weekly work schedule shall be immediately altered. The member shall be considered on-duty from 9:00am to 5:00pm, Monday through Friday, unless the Chief of Police or designee advises otherwise. The member shall remain available for contact and promptly report to duty when notified.

X. INTERNAL INVESTIGATION CRITERIA

The internal investigation process may be initiated anytime emergency administrative leave is initiated, anytime requested by a member of command staff or the Chief of Police, or when a member is alleged to have:

- Violated a federal, state, or municipal law;
- Grievously violated a Texas Local Government Code chapter 143, Department policy, rule, procedure, or directive, or City of Cedar Park policy or directive;
- Used deadly force against another person or used force to the extent that another person incurred bodily injury.

XI. TIME LIMIT ON INTERNAL INVESTIGATIONS

Internal investigations, including any corrective actions, shall be completed within the prescribed time frame established by Meet and Confer agreements and legal parameters set forth by law. If in the event a Meet and Confer Agreement is not in effect, time parameters shall automatically default back to compliance with Chapter 143 of the Texas Local Government Code.

All incidents shall be investigated. The standard time period for issuing disciplinary action shall also be defined by the Meet and Confer Agreement in addition to any relative legal parameters set forth by law.

The parameters set forth by the Meet and Confer Agreement shall enable this policy to adjust to changes as they evolve accordingly.

TIME LIMITS – In the original written statement and charges and in any hearing conducted under Chapter 143.052 of the Local Government Code, the Department head may not complain of an act that was discovered earlier than the 365th day preceding the date the Department head learned of the act. The investigation must be completed, and the Department head must temporarily or indefinitely suspend the member of the Department, no later than the 180th day after the date of discovery of the act by the Department head.

EXTENSIONS – Extensions are not approved for investigations involving sworn members unless required by provisions in Chapter 143 and Meet and Confer agreements. The Chief of Police may approve extensions

for investigations involving civilian members. Extensions may be made for a duration of up to 30 days. Any request must be made in writing by the lead investigator, and must include the justification for the extension. Additional extensions can be requested and approved by the Chief of Police as needed.

PRE-EMPTION OF CHAPTER 143 – To the extent that any of these provisions differ from Chapter 143 of the Texas Local Government Code, the Meet and Confer Agreement supersedes and preempts those provisions as permitted by Chapter 146.017 of the Texas Local Government Code.

RIGHTS – Members are assured the procedures and guidelines described in this directive will be followed. Any member who believes that a deviation has occurred should notify the Chief of Police in writing as soon as possible, so the matter can be rectified.

XII. INTERNAL INVESTIGATION PROCEDURES

NOTICE OF COMPLAINT – The Chief of Police or designee shall ensure that a member alleged in a complaint shall be informed in writing of the complaint as well as the member’s rights and responsibilities in relation to the complaint and the investigation. The member shall be provided a copy of the complaint as pursuant to the Texas Government Code chapter 614.022 and 614.023. A member of the Department designated by the Chief of Police shall prepare the written formal documents required.

The Chief of Police may place a member on administrative leave or temporarily assign the member to another job assignment during an investigation if continuation of their regular duties might be contrary to the best interests of the Department or member. This leave or reassignment shall not be considered disciplinary action and the member shall continue to receive full wages and benefits afforded to City employees.

During the course of the internal investigation, additional information may come to light which will increase the scope of the original investigation and result in the discovery of additional violations of policy, rules, or law. Should this occur, an amended notice of complaint shall be drafted and issued by the Professional Standards Division. As with the original “Notice of Complaint,” the amended notice shall include all appropriate information and process, along with the notice of additional policies, rules, or laws believed to be violated.

ASSIGNMENT OF INVESTIGATOR –The Chief of Police or designee is empowered to designate any member(s) of the Department to conduct internal investigations. The Chief of Police may assign two (2) separate investigations to an incident that is a possible violation of criminal law. One investigation is a criminal investigation, and the other investigation shall be performed as an internal investigation concerning possible misconduct.

Investigators shall complete their investigations within the guidelines of the Texas Government Code, the Texas Local Government Code, Department rules or procedures, City of Cedar Park rules or directives, and/or any agreement between the Meet and Confer Agreement that supersedes the Texas Local Government Code.

REQUIRED STATEMENT –The Department recognizes the rights of members as established by the United States Supreme Court in the cases of Miranda v. Arizona and Garrity v. New Jersey. Members ordered to complete sworn statements in an internal investigation are assured that these statements shall not be used against them in subsequent criminal proceedings (exception – involuntary statements may be used to impeach a member in court). Rights established in the “Miranda” case shall be explained to members that are requested to submit sworn statements concerning criminal allegations. Rights established in the "Garrity" case shall be explained to members that are ordered to submit sworn statements concerning criminal allegations. Members completing sworn statements may be informed of the perjury laws concerning sworn statements, when applicable.

INTERVIEW AND SWORN STATEMENT PROCEDURES – Before an interview takes place, investigators shall inform members, witnesses, etc., that they have been assigned to investigate said complaint. This requirement may be waived under the authority of the Chief of Police in some serious incidents where notification may be detrimental to the investigation. Investigators should conduct interviews of members at a reasonable time. Affected members shall be permitted to review the complainant's statement before completing their statements.

Investigators are responsible for ensuring that members, complainants, witnesses, etc., understand the rights established under the "Miranda" and "Garrity" cases when applicable, before an interview or sworn statement is received. Individuals shall be permitted to obtain a copy of their own statements. Members that are alleged by the complainants to have violated a Departmental directive shall be permitted to review the statements of the complainant. No other statement(s) shall be reviewed by members or nonmembers unless authorized by the Chief of Police. Investigators should recognize when a witness in an investigation is apparently not credible and shall document their assessment of same in their report.

A copy of the sworn statement should be provided to the person who gave the statement at the completion of the interview, or as soon as possible following the interview. If a statement is obtained away from a location where copies can be made quickly, investigating personnel should make the copy available as soon as practical.

INTERVIEWS OF WITNESSES – The investigator shall make every reasonable effort to interview every person who may have pertinent information concerning the allegations. Contacts and interviews of individual witnesses should be recorded by audio means. Whenever possible, individual witnesses shall have their statements documented in a sworn statement. In the event an individual witness refuses to submit a sworn statement then the investigator shall first attempt to have the witness record the information in some manner, either written (or signed) or by audio and/or video recording. If the witness refuses this request the investigator shall attempt to obtain all the necessary information related to the complaint and document the facts and events concerning the allegations in the investigator report. Members who are witnesses may be ordered to complete sworn statements.

COMPLAINT CONTROL NUMBER – Investigators shall record the complaint control number on each document pertaining to the investigation or the complaint. Each piece of evidence (including photos, CDs, etc.) should be labeled with the control number, date, time, name of person recorded or photographed, and other information identifying the collection and preservation of such evidence.

MEMBERS' RIGHTS – Members shall be assured that the procedures and guidelines described in this directive shall be followed. Any member who believes that a deviation has occurred should notify the Chief of Police in writing as soon as possible so the matter can be rectified.

CONCLUSION OF INVESTIGATION – Once the investigation is complete, involved members will be notified in a timely manner of the outcome. If disciplinary or corrective actions are recommended, appropriate documentation will be prepared and presented to an appropriate member of command staff prior to issuance.

DISTRIBUTION OF ADMINISTERED DISCIPLINARY DOCUMENTS – Upon completion of the disciplinary hearing, where a disciplinary suspension has been administered, a copy of the documents shall be provided to the involved member or their representative. The signed original disciplinary document should be delivered as soon as possible to the Civil Service Director for a receipt signature. A copy of the signed document shall be returned to the Professional Standards Division for retention.

LEGAL REQUIREMENTS – In compliance with licensing requirements, the Professional Standards Division or designee will report to TCOLE any investigations into alleged criminal misconduct for which criminal charges are filed against the license holder within 30 days after the investigation is completed.

XIII. APPEAL PROCEDURES FOR DISCIPLINARY ACTIONS

The appeal procedure, including timelines, for civil service members shall comply with current Meet and Confer agreements and Texas Local Government Code.

The appeal procedure and rights for civilian members are in accordance with City policy which outlines appeal procedures for these employees.

XIV. TERMINATION PROCEDURES

Dismissal procedures are governed by Disciplinary Action Human Resources Policy I-1 and applicable Civil Service rules regarding Indefinite Suspension for sworn personnel. Additionally,

1. Prior to terminating or indefinitely suspending an employee, the Chief or designee will provide a written statement citing the reason for termination or indefinite suspension.
2. The Commander or designee shall ensure that City of Cedar Park Human Resources Department provides the employee with written notice of the decision, including the effective date and a statement of accrued employee benefits after termination or indefinite suspension.

XV. NOTIFICATION TO COMPLAINANT

1. The agency has a duty and responsibility to ensure that the complainant is notified of the results of the investigation, to include the disposition of the investigation.
2. Notification to complainant will be handled by the supervisor investigating the complaint, the Chief of Police, or designee.
3. Notification or attempts to notify will be documented in the case file.

XVI. SECURITY OF INVESTIGATIONS

All records associated with internal investigations shall remain secure and confidential. Digital files shall be stored in a secured software program with limited access. Original files shall be stored in a secured room with limited access. Access shall be restricted to members of the Professional Standards Division and appropriate members of command staff.

Records will be maintained and provided to TCOLE as required by the law.