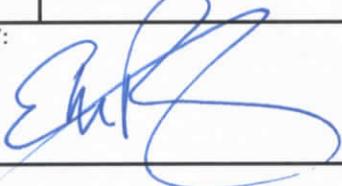


	<b>CITY OF AUSTIN EMS DEPARTMENT</b>		<b>205.a</b>
	<b>POLICY MANUAL</b>		
	<b>CHAPTER 2 – Code of Conduct</b>		
	<b>POLICY TITLE: Internal Investigations</b>		
	<b>APPLICATION: Sworn Personnel</b>	<b>Effective Date: 01/08/13</b>	
<b>AUTHORIZED BY:</b> 		<b>Rescinds: 205: 01/08/2013</b>	
		<b>Revision: 02/05/2014</b>	

## 205 – Internal Investigations

### .01 Purpose

This document establishes a policy framework by which to implement Procedure HR-01.07.01 when investigating allegations of misconduct and/or Code of Conduct policy violations by sworn staff of Austin-Travis County EMS (ATCEMS). This document does not supersede any rights or privileges afforded sworn employees through the Meet and Confer Agreement or Texas Local Government Code (TLGC) Chapter 143. In addition, nothing in this document limits or restricts the powers vested in the EMS Chief as the decision maker in all disciplinary matters.

### .02 Exceptions / Exemptions

Investigations conducted by EMS Human Resources of non-sworn employees are governed by City of Austin Personnel Policies.

### .03 Policy

#### A. Definitions

1. **Administrative Inquiry** – Inquiry into a complaint against the department or an employee who cannot be identified or when the complainant is not willing to cooperate with the investigator but the ATCEMS Chief or his designee determines an inquiry is warranted.
2. **Administrative Investigation** – An investigation of alleged misconduct by an ATCEMS employee that could result in disciplinary action.
3. **Appropriate Appeal** – An appeal made in compliance with and according to the provisions TLGC Chapter 143, as amended by the Meet and Confer Agreement, if applicable.
4. **Complainant** – Either a person claiming to be a witness to or a victim of misconduct by a Medic; or the Department designee in the case of an anonymous complaint or administrative referral.
5. **Complaint** – Any affidavit, administrative referral, or other document setting forth allegations or facts that may form the basis of future allegations of misconduct against a Medic and which serves as the basis for initiating an investigation.
6. **Criminal Investigation** – An investigation of alleged criminal conduct by a Medic. These investigations are generally conducted by the outside agency holding jurisdiction over the incident. Where there is an allegation of criminal conduct, a concurrent administrative investigation shall also be conducted by the Office of Professional Conduct (OPC).
7. **Disciplinary Action** – A temporary suspension, indefinite suspension, demotion in rank, reprimand, or any combination of those actions. Punitive disciplinary action does not include a written reprimand or other

- lesser form of corrective action.
8. **Disposition** – The final determination of how a complaint is closed (e.g. “Sustained”, “Unfounded”, or “Administratively Closed”).
  9. **Employee** – A sworn employee of the ATCEMS Department. See definition of Medic.
  10. **Evidence** – Any statements, reports, records, recordings, documents, computer data, text, graphics, videotape, photographs, or other tangible forms of information including a “complaint”.
  11. **Indefinite Suspension** – Equivalent to dismissal from the Department.
  12. **Investigator** – Any agent or employee of the municipality who is assigned to conduct an administrative inquiry or investigation
  13. **Investigation** – An inquiry into alleged misconduct by a Medic that could result in disciplinary action.
  14. **Medic** – An employee of the Department who was appointed in substantial compliance with Chapter 143 or who is entitled to civil service status under Chapter 143.005, excluding the Head of the Department and persons appointed to the position in the classification immediately below that of the Head of the Department.
  15. **Normally Assigned Working Hours** – Those hours during which a Medic is actually at work or at the person’s assigned place of work, but does not include any time when the person is off duty on authorized leave, including sick leave.
  16. **Respondent** – The Medic who is the subject of an administrative inquiry or investigation.
  17. **Restricted Duty** – Duties assigned by the ATCEMS Chief involving assignment with minimal public contact.
  18. **RMS (Records Management System)** – The electronic system used to enter and track all complaints received by the OPC.
  19. **Statement** – Any communication (oral or written) setting forth particulars or facts regarding the alleged misconduct under investigation.
  20. **Sworn Personnel/Sworn Employee** – See definition of Medic.

#### B. Complaint Process

1. Complainants may be department employees, a member of the public, or anonymous. Complaints can be received by the following:
  - i. Any person in the employee’s chain-of-command including the EMS Chief. If the allegation involves a person in the employee’s chain-of-command, employees should feel free to report the situation to any other supervisor.
  - ii. The EMS HR manager or designee.
  - iii. The City’s Human Resources Director or HRD Employee Relations (a division of the City’s Human Resources Department)
  - iv. Office of Professional Conduct (OPC)
2. The OPC will determine if the sworn employee has previous disciplinary history and evaluate the complainant’s seriousness to determine whether the alleged violation will be investigated by the OPC or referred to Operations for disposition.
3. An investigator may not interrogate a sworn employee of ATCEMS based on a complaint by a complainant who is not a sworn employee of ATCEMS unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath.

An interrogation may be based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint verifies in writing, under oath, that the complainant was and/or wishes to be anonymous.

4. All complaints received and investigated by the OPC will be assigned a tracking number and kept in a records management system database.

### **C. Complaint Assessment**

1. All complaints that are reported to the OPC will be initially evaluated by an investigator. If the OPC determines that the complaint does not warrant further OPC involvement, the investigator will forward the complaint and any initial findings to the appropriate persons for resolution. These may include:
  - i. EMS Human Resources
  - ii. EMS Operations Command
  - iii. EMS Designated Medical Officer Group
  - iv. EMS Chief of Staff
2. If facts uncovered during an OPC inquiry or investigation indicates a crime has or may have been committed, the investigator will contact the appropriate Law Enforcement agency holding jurisdiction over the incident. When there is an allegation of criminal conduct, a concurrent administrative investigation shall also be conducted by the OPC.
3. Authorization for an administrative investigation which may result in corrective action shall originate with the EMS Chief or his designee.

### **D. Investigative Process - General Guidelines**

1. Investigators will be employees assigned to the OPC by the EMS Chief or an agent designated by the EMS Chief or City Manager to conduct the administrative inquiry or investigation. The person assigned to conduct an investigation cannot be:
  - i. The complainant;
  - ii. The person who will make the final decision on the discipline administered; or
  - iii. Personally involved in the alleged misconduct.
2. The assigned investigator will investigate the allegations(s) listed in the complaint. Other potential policy violations discovered during the course of the investigation, but not listed in the complaint, may also be investigated by the investigator or based on the findings referred to EMS-HR and/or the employee's Chain of Command for final recommendation.
3. The assigned investigator will conduct investigations in accordance with TLGC Chapter 143, as amended if applicable, by any duly ratified Meet and Confer Agreement, and any other applicable state or federal law.

### **E. Investigative Findings - General Guidelines**

1. At the conclusion of the investigation, the investigator will prepare an Investigative Fact-Finding Report based on the allegations investigated.
2. A Chain-of-Command Committee will convene to review the Investigative Fact-Finding Report and prepare a recommendation of which allegations to sustain, if any, and a disciplinary recommendation for review and consideration by the EMS Chief.
3. In all cases, the EMS Chief shall make the final determination of

- disciplinary action.
4. The EMS Chief shall review the status of any criminal charges or court rulings related to the allegations prior to taking corrective action. Any staff member who is the subject of an investigation is required to submit any court documents relevant to the allegations.
  5. If disciplinary action is taken by the EMS Chief, the City Attorney's Office will prepare a Disciplinary Memorandum which will be delivered to the staff member by the EMS Chief, or his designee and filed with the Civil Service Commission.
  6. Pursuant to TLGC Chapter 143, only temporary suspensions (excluding agreed suspensions), indefinite suspensions, involuntary demotions in rank, and promotional bypasses are subject to the appeal. If an employee is subject to a disciplinary action for which an appeal is allowed, the appeal process will be set forth in the Disciplinary Memorandum.

#### **F. Administration of Discipline**

1. Any sustained allegation that does not result in disciplinary action as defined herein will be forwarded to the employee's Chain of Command for closure.
  - i. All paperwork related to the investigation and the original case file will be retained at the OPC.
2. Written notice of any sustained allegation resulting in disciplinary action or any other form of corrective action will be delivered to the respondent.

#### **G. Disciplinary Appeals**

1. Appeals of disciplinary actions will be conducted in accordance with TLGC Chapter 143, any duly ratified Meet and Confer Agreement, and the City of Austin Fire Fighters', Police Officers' and Emergency Medical Services Personnel's Civil Service Commission Rules and Regulations.

#### **H. Security/Access to Files**

1. All OPC files will be maintained in a secured area. The OPC will control access to these files. Records will be released to the public only when required by law.
2. Any open records request for OPC files will be referred to the EMS legal advisor.
3. No documents or items will be released pursuant to a subpoena without authorization from the EMS legal advisor.
4. When a former EMS employee is seeking employment with any governmental agency, a representative from that agency may be granted access to the employee's OPC file when the following conditions are met:
  - i. The representative presents their agency credentials.
  - ii. The representative presents a signed, legally sufficient release/waiver form signed by the former employee.
  - iii. The OPC and the Legal Advisor have given approval to grant access to said file.

**I. Record Retention**

1. Following the administration of discipline, the original investigation case file will be forwarded to OPC for retention.
2. The OPC will be the Department's final repository and custodian of all documents related to investigations.
3. All investigative files that result in disciplinary action are the property of the Civil Service Commission. Unless requested by the Director of Civil Service or his designee, the original case file will be maintained by the OPC. Should the Director of Civil Service or his designee request the original case file, a copy of the file will be maintained by the OPC.
4. The OPC will be responsible for updating and maintaining the computer database of investigations.
5. The OPC has the full authority to require the production of any documentation, evidence, or other information necessary to maintain internal investigation records.