

Texas Fire Chiefs Association
DOCUMENT SUBMISSION FORM

Candidate Department: Coppel Fire Department

Best Practice Standard: 12.08 Records and Security of Complaints and Investigations
(insert the Best Practice Standard you are working on – example “1.01”)

Proofs of Compliance Submitted:

1. Please see the attached Coppel Fire Department SOG #00-27 Internal Investigations.
2. Please also see the attached City of Coppel Policies and Procedures Handbook, Policy #1115: Personnel Records (Page 7, highlighted).

Submitted By: Gregg Loyd	Date: 10/1/2013
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Evaluator’s Review

Evaluator:

Date Accepted:

Coppell Fire Department Standard Operating Guidelines



SOG# 00-27 – Internal Investigations	Effective Date:
Fire Chief: <i>[Signature]</i>	Revised Date: 12/23/2013

Purpose: Provide a procedure for a thorough and comprehensive investigation of valid complaints and ensure that the internal investigation is objective and fair.

Scope: This policy applies to all members of the Coppell Fire Department.

Directions:

1. All personnel will assist with internal investigations authorized by the Fire Chief. Members shall truthfully answer questions and not withhold information dealing with such investigations.
2. Each member participating in a complaint investigation or having knowledge of a reported incident will submit a letter addressed to the Fire Chief, if requested to do so by the supervisor, before going off-duty on the day of his/her involvement, or at any time as directed by the assigned investigator. The letter will include all information known by or reported to the employee related to the incident and may be required to be notarized.
3. Supervisory and command personnel will initiate inquiries when they become aware of infractions of the Code of Conduct, Departmental rules, regulations, policies or SOPs by any member of the Department. They will not look to higher authority for initiation of this action. Members and non-sworn employees will report infractions to their supervisor.
4. The supervisor who first becomes aware of an employee's involvement in an alleged or suspected criminal violation or serious violation of Departmental regulations will inform his/her on-duty Battalion Chief as soon as possible. If the violation involves the Battalion Chief then Fire Administration should be notified immediately.
5. The Fire Chief will then confer with Fire Administration and an Investigator will be assigned to review the information available and determine if the complaint is of sufficient gravity to warrant an official investigation.

6. Official Investigations Procedures:

A. The Fire Chief, Assistant Fire Chief, Deputy Chief, Internal Affairs Investigator or other person assigned to investigate an alleged violation shall:

- i. Interview the complainant in person and obtain all pertinent information so the complaint can be reduced to writing.
- ii. Advise the complainant that the complaint must be put in writing and signed by the complainant. Each complainant talked to in person will be required to sign a complaint form.
- iii. Decline to investigate unsigned, unwritten or anonymous complaints unless authorized to do so by the Chief of the Department.
- iv. Examine the contents of all complaints to determine if they meet the requirements of a complaint, i.e. alleges a violation of the law or a Departmental rule, regulation or procedure.
- v. If during the course of an investigation, a false statement or perjury by the complainant is suspected, the matter will be referred to the District Attorney through the assigned Internal Affairs Investigator for review and disposition.

B. Interviewing the Member(s) Being Complained Against:

- i. The member under official investigation will be presented with a written copy of the allegation(s).
- ii. The member(s) under investigation will be required to appear at the Internal Affairs Investigator's office or other designed location to respond to the charges.
- iii. The member(s) under investigation will be given forty-eight (48) hours' notice of a scheduled interview. The Fire Chief may waive the advance notice if the notice could compromise the integrity of the investigation.
- iv. The accused member will not be permitted to have counsel or other representation present during an interview regarding an investigation of non-criminal conduct. The Sixth Amendment right to counsel does not apply to civil or administrative matters.
- v. Prior to being questioned by the investigating officer, the accused member will be given the Garrity Warning. The Garrity Warning is used in administrative investigations to provide assurance to the accused that statements made by them will not be used against them in a criminal proceeding. All investigations conducted by an Internal Affairs Investigator, the chain of command or Emergency Medical Services Coordinator are administrative investigations. The Garrity Warning:

- a. Informs members that they are required to respond to allegations or submit to tests or examinations regarding allegations of violations of administrative rules or regulations.
 - b. Informs members that failure to respond to allegations or submit to tests or examinations can result in disciplinary action up to and including discharge.
 - c. Informs members that such questions, tests or examinations will be narrowly and specifically related to their performance of duties or fitness for office.
 - d. Informs members that such statements, tests or examinations results cannot be used against the member in a criminal proceeding.
 - e. Will be given before requiring a response from a member suspected of violations of administrative rules and regulations requiring a formal investigation.
- vi. The accused member is required to answer questions and can be disciplined up to and including discharge for refusal to answer such questions.
- vii. Any oral or written statement required to be given by a member can be used against the member in an administrative disciplinary proceeding. These statements cannot and will not be used against the member in any criminal proceedings.
- viii. Willfully falsifying an official City document in the form of a statement during an investigation is grounds for discharge.

C. Interviewing of Members Other Than the Accused:

- i. The investigating officer will interview all members who may be witness to the incident under investigation.
- ii. During any official investigation and through the appeals process, a member having information relevant to the matter will report such information to the assigned investigating officer. Members will not discuss a matter under investigation with anyone else except the assigned investigating officer.

7. Time Allotment:

A. Administrative investigations shall be conducted in a non-biased, thorough, and concise manner. Once the investigative process has begun, the investigator should submit their findings to the Fire Chief no later than the close of business on the ninetieth (90th) calendar day, unless one of the following circumstances applies:

- i. The nature of the complaint results in a criminal investigation.
- ii. The Fire Chief, under advisement of the investigator or city attorney, determines the nature of the complaint requires an extension due to the complexity of the complaint.
- iii. The member who is the subject of an administrative investigation is required to submit to a physical and/or psychological evaluation.

Note: The member shall be notified of any extension.

8. Termination of Investigation:

A. Should it be determined at any point in the investigation the complaint is clearly unfounded, the investigation will be terminated upon orders from the Fire Chief. The employee will be notified in writing of the action being taken.

9. Action Taken Upon Conclusion of an Official Investigation:

A. Upon completion of the investigation, the investigating officer will submit a report to the Fire Chief.

B. The Fire Chief will review the report and will classify the complaint as one of the following:

1. **Unfounded** -Allegation is false or not factual.
2. **Exonerated** -Incident did occur but was lawful and/or proper.
3. **Not Sustained** -Insufficient evidence either to prove or disprove the allegation(s).
4. **Sustained** -Allegation is supported by sufficient evidence.

10. If the allegation(s) are sustained, disciplinary action may be sought and imposed by the Fire Chief.

6

11. The individual who filed the complaint will be notified of the investigation results no later than the close of business on the thirtieth (30th) day once the Fire Chief has classified the complaint.

CITY OF COPPELL POLICIES AND PROCEDURES HANDBOOK

PERSONNEL RECORDS

Policy No. 1115

Rev. 01/01/2010

The City of Coppell maintains official personnel files in the Human Resources Department for each City employee. Regular performance reviews, change of status records, commendations, disciplinary actions, and educational and professional attainment records are examples of records maintained in personnel files.

Access to Information in Personnel Files. Personnel files of employees are the property of the City and access to the information they contain is restricted. Information contained in personnel files may, however, be subject to disclosure in accordance with the Texas Public Information Act. The Human Resources Department may release impersonal statistical information as deemed appropriate.

Personnel files are open for inspection as follows, subject to procedures established by the Human Resources Department:

- An employee may normally examine the entire contents of his/her personnel file.
- Examination of an employee's personnel file by a potential employer will normally be permitted with a written release acceptable to the City.
- Upon written request, which complies with the provisions of the Public Information Act, anyone may examine information contained in any employee's personnel file, except for that information which is deemed confidential by law.
- A City employee who has supervisory authority over the employee, or an employee with a bona fide "need to know", may examine material in an employee's personnel file.
- By order of a court of competent jurisdiction, any person may examine such portion of any employee's personnel file as may be ordered by the Court.
- As deemed appropriate when in the City's best interest.

Unauthorized removal or alteration of any documents from a personnel file will subject the employee responsible to appropriate discipline, up to and including termination.

No information from an official personnel file will be released on an active or inactive employee, except with the prior authorization of the Human Resources Department.

Medical Records. Medical records for all employees will be maintained in separate files by the Human Resources Department and treated as confidential. Medical records are not to be maintained outside the Human Resources Department unless authorized by the Human Resources Department in extraordinary circumstances.

Changes in Personnel Information. Employees must provide the Human Resources Department with their current street address and a current phone number and immediately advise the Human Resources Department of any change. Employees are also responsible for keeping the Human Resources Department informed of any changes in name, home phone number, and family status (births, marriages, death, divorce, legal separation) and name and address of dependents (for benefits and tax withholding purposes only), beneficiary designations, persons to be notified in an emergency, educational accomplishments, and relevant certifications or licenses. This responsibility also applies to employees on leaves of absence.

Accuracy of Information. The City relies on the accuracy of information provided by individuals in their resume and employment application, as well as other data provided throughout the hiring process and during employment. Any misrepresentations, falsifications, or material and/or purposeful omissions in any of this information will likely result in the termination of the employee or the exclusion of an applicant from further consideration for employment.