



EXECUTIVE ORDER
**ESTABLISHMENT OF OFFICE OF INSPECTOR GENERAL
FOR INVESTIGATION OF EMPLOYEE MISCONDUCT**

EO No.

EO 1-39

Effective Date:

Upon Approval

1. PURPOSE

To prescribe the responsibilities of (a) the City's Inspector General, an attorney licensed to practice law in Texas and appointed by the Mayor, and (b) the Office of the Inspector General ("OIG"), a division of the Office of the City Attorney. OIG and the Inspector General report directly to and are supervised by the City Attorney.

To prescribe the responsibilities of City's employees, elected and appointed officials, vendors, contractors, and component units regarding matters within the scope of this Executive Order.

2. SCOPE

This Executive Order applies to allegations of misconduct by City's employees, elected officials, appointed officials, vendors, contractors, and component units. Except as provided in Paragraph 4.1.1.8 below, this Executive Order does not apply to classified police officers subject to Chapter 143 of the Texas Local Government Code or to civilian personnel employed by the City but managed by the Houston Police Department ("HPD").

3. DEFINITIONS

Appointed official: A person appointed by the Mayor, City Controller, or City Council to a board, commission, or other City-sponsored entity.

Client: The City, as represented by the Mayor or the Mayor's designee, except as specifically provided below.

Component unit: An organization legally separate from the City but for which the City is financially accountable, as determined in the sole but reasonable judgment of the Director of the City's Finance Department.

Mayor's designee: One or more persons (a) employed by the City and (b) designated by the Mayor to receive legal advice and work product prepared by the OIG within the scope of this Executive Order. The Mayor has designated the director of each City department to receive legal advice and work product prepared by the OIG and pertaining to the director's department. The Mayor and the designated directors may designate additional designees as they deem appropriate. The Mayor and the designated directors may withdraw any of the designations at any time.

Misconduct: An act or failure to act that violates:

- (a) the City Charter, the City's Code of Ordinances ("Code of Ordinances"), an Executive Order, a Mayor's Policy, an Administrative Procedure, or a Department/Division Policy; or
- (b) a state or federal law that regulates the City and that relates to a duty or obligation owed to the City by a City employee, elected or appointed official, vendor, contractor, or component unit.

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4. RESPONSIBILITIES

4.1. Inspector General and the Office of the Inspector General

4.1.1. The Inspector General shall:

- 4.1.1.1. Supervise the OIG.
 - 4.1.1.2. Investigate allegations of misconduct to facilitate the provision of legal advice to the Client.
 - 4.1.1.3. Investigate allegations of workplace threats or violence (but only to the extent and as prescribed by Administrative Procedure 3-21) to facilitate the provision of legal advice to the Client.
 - 4.1.1.4. Investigate allegations of wage theft (but only to the extent and as prescribed by Section 15-62 of the Code of Ordinances) to facilitate the provision of legal advice to the Client.
 - 4.1.1.5. Investigate complaints filed with the Houston Ethics Commission (but only to the extent and as prescribed by Section 18-16 of the Code of Ordinances) to facilitate the provision of legal advice to the Houston Ethics Commission, which in such circumstances shall be the Inspector General's Client.
 - 4.1.1.6. Serve as legal advisor to, and investigator for, the Independent Police Oversight Board (but only to the extent and as prescribed by Executive Order 1-5 Revised); in such circumstances, the Inspector General's Client shall be the Independent Police Oversight Board.
 - 4.1.1.7. Upon request by the component unit or the Mayor, investigate complaints of misconduct pertaining to a component unit to facilitate the provision of legal advice to the Client. The Inspector General is authorized to render legal advice to the component unit.
 - 4.1.1.8. In accordance with Executive Order 1-5, assist an individual with the preparation and filing with HPD's Internal Affairs Division of a complaint against a classified police officer and/or a civilian employee of the City managed by HPD.
- 4.1.2. After the conclusion of an investigation by OIG, the Inspector General shall notify the complainant regarding whether the Inspector General has sustained the allegation(s) of misconduct, except that the Inspector General is not required to provide such notice:
- 4.1.2.1. In the circumstances described in Paragraph 4.1.4; or
 - 4.1.2.2. If in the Inspector General's sole but reasonable judgment providing such notice could compromise another investigation by OIG or by another authority with lawful jurisdiction.
- 4.1.3. Notwithstanding anything to the contrary in this Executive Order, the Inspector General shall decline to provide legal advice or to investigate a complaint if in the Inspector General's sole but reasonable judgment doing so is reasonably likely to conflict with the City's interests in a manner and to a degree prohibited by Rule 1.06(b) of the Texas Disciplinary Rules of Professional Conduct.
- 4.1.4. The Inspector General is obligated to utilize the OIG's resources as efficiently as possible. Accordingly, and notwithstanding anything to the contrary in this Executive Order, the Inspector General may decline to investigate a complaint and instead forward the complaint to the City's Human Resources Department or other City department as deemed appropriate in the sole but reasonable judgment of the Inspector General.

4.2. Department Directors

- 4.2.1. When the Inspector General acts to fulfill the responsibilities stated in Section 4.1.1 of this Executive Order, each department director shall assist the Inspector General and ensure that each employee of the department responds promptly to the OIG's requests for interviews, documents, and other information reasonably necessary for a complete investigation.
- 4.2.2. Directors or their designees may refer matters to OIG for investigation and legal advice.

4.3. Elected Officials

- 4.3.1. When the Inspector General acts to fulfill the responsibilities stated in Section 4.1.1 of this Executive Order, each elected official of the City shall assist the Inspector General and ensure that each City employee managed by the elected official responds promptly to the OIG's requests for interviews, documents, and other information reasonably necessary for a complete investigation.

4.4. Appointed Officials

- 4.4.1. Each appointed official has the same responsibilities and may be subject to the same penalties as a City employee, which responsibilities and penalties are stated in Section 4.6 of this Executive Order.
- 4.4.2. When the Inspector General acts to fulfill the responsibilities stated in Section 4.1.1 of this Executive Order, each appointed official shall assist the Inspector General and respond promptly to the OIG's requests for interviews, documents, and other information reasonably necessary for a complete investigation.

4.5. Vendors and Contractors

- 4.5.1. When the Inspector General acts to fulfill the responsibilities stated in Section 4.1.1 of this Executive Order, each of the City's vendors and contractors shall assist the Inspector General and respond promptly to the OIG's requests for interviews, documents, and other information reasonably necessary for a complete investigation.

4.6. City Employees

- 4.6.1. A City employee who believes in good faith that misconduct is occurring or has occurred has an affirmative duty to report to the OIG the facts or circumstances giving rise to the belief. Failure to do so may give rise to corrective action.
 - 4.6.1.1. An allegation of misconduct shall be in writing, on a form promulgated by the OIG or verified before an officer authorized to administer statements under oath, such as a notary. Failure to do so may, in the sole discretion of the OIG, preclude investigation or corrective action.
 - 4.6.1.2. An allegation of misconduct should be reported to the OIG as promptly as possible, but in any event, no later than thirty days after the person making the allegation is aware of facts or circumstances that appear to constitute misconduct. Failure to do so may, in the sole discretion of the OIG, preclude investigation or corrective action.
 - 4.6.1.3. A City employee shall not falsely allege misconduct to the OIG (that is, represent to the OIG that a material fact or circumstance is true when the employee knows the representation not to be true).

- 4.6.2. Each City employee shall cooperate fully with any investigation conducted by the OIG and shall provide truthful information, written statements, documents, and related materials upon the OIG's request.
- 4.6.3. Unless authorized in writing by the Inspector General or as otherwise provided by law, no City employee shall disclose to any person other than (a) the staff of the OIG or (b) the employee's personal legal representative, if any, the substance of any communication (whether verbal, electronic, or in writing) to or from the OIG related to an OIG investigation.
- 4.6.4. No City employee shall interfere with an OIG investigation.
- 4.6.5. No City employee shall take any adverse employment action against any person as a result of the person's cooperation with an OIG investigation.
- 4.6.6. This Executive Order does not relieve any City employee of any duty to comply with state and federal law, the City Charter, City ordinance, City Executive Order, City Administrative Procedure, Mayor's Policy, or a City department policy regarding misconduct or the reporting of misconduct.
- 4.6.7. Violation of this Executive Order constitutes misconduct and shall subject the employee to disciplinary action up to and including indefinite suspension.

5. ALLEGATIONS RE: WHISTLEBLOWER ACT

- 5.1. A City employee or a former City employee who believes that the City has taken an adverse personnel action against him in retaliation for a prior complaint made to "an appropriate law enforcement agency" in violation of Chapter 554 of the Texas Government Code ("Whistleblower Act") may file a complaint ("Whistleblower Complaint") with the OIG and provide the facts and circumstances giving rise to the employee's belief. OIG investigates Whistleblower Complaints but is not "an appropriate law enforcement agency" within the meaning of the Whistleblower Act. A Whistleblower Complaint filed with the OIG should be in writing, on a form promulgated by the OIG.
 - 5.1.1. Upon receipt of a Whistleblower Complaint, the OIG will mark the date and time of receipt on the face of the Complaint.
 - 5.1.2. A Whistleblower Complaint should be filed with the OIG as promptly as possible, but in any event within 90 days after the date on which the adverse personnel action occurred or was discovered through reasonable diligence.
 - 5.1.3. Except as authorized in writing by the City Attorney, the OIG must complete its investigation of a Whistleblower Complaint within 45 days after the date on which the Whistleblower Complaint was filed with the OIG.
 - 5.1.4. Upon completion of its investigation of a Whistleblower Complaint, the OIG will deliver a written report of the OIG's findings and conclusions ("OIG's Report") to the director of the department in which the employee is or was most recently employed. Within 20 days after the date on which the Director received the OIG's Report, the Director will issue a written decision on the Whistleblower Complaint reflecting the corrective action, if any, that the Director will take, which may include but is not limited to discipline up to and including termination of the employee found to have violated the Whistleblower Act.
- 5.2. If a civil-service-protected City employee timely files with the Civil Service Commission ("Commission") an Appeal ("Civil Service Appeal") of the employee's indefinite suspension, involuntary demotion, reduction in pay, or temporary suspension in excess of 15 days, and if the Civil Service Appeal alleges any fact or circumstance that may constitute a violation of the Whistleblower Act, the Commission shall file a copy of the Civil Service Appeal with the OIG.

- 5.2.1. Upon receipt of a Civil Service Appeal, the OIG will mark the date and time of receipt on the face of the Civil Service Appeal.
- 5.2.2. The OIG investigates only those facts and circumstances alleged in the Civil Service Appeal that may constitute violations of the Whistleblower Act.
- 5.2.3. Except as authorized in writing by the City Attorney, the OIG must complete its investigation of a Civil Service Appeal within 20 calendar days after the date on which the Civil Service Appeal was filed with the OIG.
- 5.2.4. Upon completion of its investigation of a Civil Service Appeal, the OIG will deliver a written report of the OIG's findings and conclusions to the Commission, and the Commission will issue a written disposition of the Civil Service Appeal within 30 days after the date on which the Civil Service Appeal was filed with the Commission.

5.3. Other than Civil Service Appeals, the Commission may refer any Whistleblower Complaint to the OIG for investigation, which referral will constitute a "filing" with the OIG.

6. POLICY CONFLICT

- 6.1. This Executive Order supersedes any and all prior policies and/or Executive Orders to the extent such policies or Executive Orders are inconsistent with this Executive Order 1-39, including without limitation Executive Order 1-39 Revised, Establishment of Office of Inspector General for Investigation of Employee Misconduct, dated March 1, 2011, which shall be of no further force or effect.