

Special Report

Anonymous Complaints of Misconduct by Police Officers

October 2023



Austin police officers can file complaints if they know or suspect another officer has violated policy internally and externally. Internally, the department policy requires officers to file complaints of misconduct through their chain of command by completing an Internal Affairs Internal Complaint Memorandum. Externally, even though it is not prescribed by APD General Orders, officers are able to file complaints to the Office of Police Oversight by using methods available to the public.

We surveyed six cities to understand their police officer complaint processes. We found most cities require police officers to report misconduct through their chain of command. Two of the six cities surveyed do not allow police officers to submit anonymous complaints. All cities surveyed have an independent entity that accepts complaints through various methods.

Overall, there is a lack of information about the benefits and other impacts of implementing a process for police officers to submit complaints against other officers anonymously.

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Cover: Photo of police badge on uniform retrieved from City of Austin Brand Portal, September 2023.

Objective

The objective of this special request was to answer the following questions provided by the City Council:

1. How does Austin handle anonymous complaints submitted by police officers?
2. How do other cities around the U.S. handle anonymous complaints submitted by police officers?
3. What information is available regarding the impacts of those policies and differences between cities that do and do not permit anonymous complaints by police officers?

Background

Austin Police Department (APD) officers interact with residents and visitors thousands of times each year. When someone believes they have had a negative interaction with an officer they can file a complaint¹ about the officer's actions. APD officers are required to file a complaint if they know or suspect another officer has violated APD policy².

In Austin, there are two organizations involved in APD's complaint process. They are APD's Internal Affairs (IA) Division and the Office of Police Oversight (OPO). APD's Internal Affairs Division receives all complaints, whether received by the public or APD employees, and conducts administrative investigations³. OPO's complaint division accepts public complaints related to APD and provides oversight during an investigation.

¹ A complaint is defined as either (1) an affidavit or (2) any other written or verbal communication setting forth allegations or facts that may form the basis of future allegations of misconduct that violate policy against an officer and which serves as the basis for initiating an investigation.

² Policy refers to Austin Police Department General Orders. General Orders are a statement of the current directive and general practices of the department.

³ Administrative investigation refers to an investigation of a complaint of officer violation of APD policy. This report covers the reporting of officer misconduct involving a General Order violation and does not include complaint reporting for equal employment opportunities or criminal misconduct.

There are two laws that govern the complaint process for police officer misconduct in the City of Austin: Texas state law, as dictated in Chapter 143 and 614 of the Texas Local Government Code (TLGC), and the City of Austin’s municipal laws, as established in the city charter and APD General Orders. The complaint process is also governed by meet and confer agreements, which are labor contracts negotiated between the city and its police union.

There is a hierarchy for these legal authorities: State law overrides municipal law, but the meet and confer agreement overrides both. The City’s meet and confer agreement with Austin Police Association (APA) expired on March 31st, 2023. The City now follows TLGC Chapter 143 and 614.

APD’s anonymous complaint⁴ acceptance process has changed due to the expiration of the meet and confer agreement. Under TLGC 143 and 614, all anonymous complaints must be submitted in writing and sworn under oath.

This report covers the complaint acceptance process of APD’s administrative investigation procedure.

Exhibit 1: A complaint is initiated after alleged misconduct occurs.



Source: OCA analysis of the City of Austin’s complaint acceptance process, August 2023

Once a complaint has been reviewed by Internal Affairs and given a classification, the remainder of the administrative investigation procedure is conducted in the same manner regardless of whether the complainant was anonymous or known.

⁴ An anonymous complaint is defined as a complaint in which the identity of the complainant is unknown, or the complainant wishes to remain unknown.

What We Learned

Summary

Austin police officers can file complaints if they know or suspect another officer has violated policy internally and externally. Internally, the department policy requires officers to file complaints of misconduct through their chain of command by completing an Internal Affairs Internal Complaint Memorandum. Externally, even though it is not prescribed by APD General Orders, officers are able to file complaints to the Office of Police Oversight by using methods available to the public.

We surveyed six cities to understand their police officer complaint processes. We found most cities require police officers to report misconduct through their chain of command. Two of the six cities surveyed do not allow police officers to submit anonymous complaints. All cities surveyed have an independent entity that accepts complaints through various methods.

Overall, there is a lack of information about the benefits and other impacts of implementing a process for police officers to submit complaints against other officers anonymously.

Question 1

How does Austin handle anonymous complaints submitted by police officers?

APD officers as Austin community members, have access to the multiple methods available to the public to report officer misconduct. However, APD policy requires officers to report misconduct through the Department's chain of command.

Complaints of officer misconduct may be initiated internally or externally. Internal complaints are complaints APD initiates. External complaints are complaints that originate from the Office of Police Oversight (OPO).

Internal Anonymous Complaints

APD General Orders require police officers to report any known or suspected employee misconduct. Police officers are to notify a supervisor and complete an "IA Internal Complaint Memorandum" which will be either emailed, faxed, or hand delivered to APD Internal Affairs (IA). According to APD General Orders, police officers are not allowed to submit anonymous complaints internally. However, the department cannot prevent anonymous complaints from occurring. If an anonymous complaint from an APD officer is received, for example through an anonymous letter left on a desk, an APD supervisor or sergeant will review the complaint. The anonymous complaint will be routed through the chain of command and a formal internal complaint will be initiated if additional evidence⁵ supporting the allegation is collected.

APD's practice of internal complaint initiation did not change due to the expiration of the meet and confer agreement.

APD General Orders 900.2:
"Employees will report any employee known or believed to be guilty of any violation of a rule, regulation, or order issued by the Department to their immediate supervisor."

⁵ Example of supportive evidence is body camera footage.

External Anonymous Complaints

Before the expiration of the meet and confer agreement, anyone (including a police officer) was able to submit an anonymous complaint of officer misconduct to the Office of Police Oversight (OPO) online, over the phone, in person, or by mail. OPO management indicated police officers have submitted anonymous complaints to OPO even though it is not the prescribed method per APD General Orders. The meet and confer agreement allowed OPO to conduct a preliminary review of complaints before they proceed to a full investigation.

Now, because the meet and confer agreement has expired, if someone (including a police officer) wanted to file an anonymous complaint through OPO they have two options:

TLGC Chapter 143.312(g): “An interrogation may be based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was anonymous.”

1. APD Internal Affairs (IA) will send a representative to OPO to receive the anonymous complaint in the presence of the complainant to certify that the complainant is anonymous. This protocol meets the requirement in TLGC Chapter 143.312(g) and 614.022. However, it is unlikely for officers to choose this option as they would need to make the complaint in front of fellow officers.
2. The complainant may fill out an online “anonymous concern⁶” form on OPO’s website. However, the City may be limited in what it can do with the information if the complainant does not verify their statement under oath.

An “anonymous concern” in which the complainant has not verified their statement under oath does not meet TLGC Chapter 143.312 and 614.022 criteria for a formal complaint. However, OPO shares these anonymous concerns with APD Internal Affairs. APD Internal Affairs reviews anonymous concerns and determines whether a formal internal complaint and investigation should be initiated.

All complaints and concerns are forwarded to APD Internal Affairs regardless of where the complaints and concerns are initiated. APD Internal Affairs will conduct an initial assessment and designate a classification level for the complaint. The classification shall determine whether the complaint requires investigation and, if so, who shall conduct the investigation.

⁶ An “anonymous concern” refers to an anonymous report of misconduct that does not meet the legal definition of a complaint.

Question 2

How do other cities around the U.S. handle anonymous complaints submitted by police officers?

We surveyed six cities, three in Texas and three outside of Texas, to determine if and how police officers can submit anonymous complaints of officer misconduct. Our ability to compare Austin's anonymous complaint acceptance process to similar entities is limited by differences in state laws and labor agreements, but we observed some consistent trends.

Internal Anonymous Complaints

We found most surveyed cities require police officers to report misconduct through their chain of command as part of their rules and regulations.

Exhibit 2: Two out of six surveyed cities do not allow police officers to submit anonymous complaints internally*

City	Internal Anonymous Complaints by Officers Permitted?
Austin	No. Department policy does not allow officers to submit anonymous complaints internally.
Charlotte-Mecklenburg	Yes. Officers are allowed to submit anonymous complaints through the department via the officer's chain of command or Internal Affairs.
Chicago	No. Officers are not allowed to submit anonymous complaints internally.
Dallas	No. Officers are not allowed to submit anonymous complaints internally.
Fort Worth	Yes. Officers are allowed to submit anonymous complaints through the department via the officer's chain of command or Internal Affairs.
Houston	Yes. Officers are allowed to submit anonymous complaints through the department via Internal Affairs/Central Intake Office.
Seattle	Yes. Officers are allowed to submit anonymous complaints internally via chain of command or to the Office of Police Accountability.

*For this project, "internally" refers to complaints initiated by the police department.
Source: OCA analysis of surveyed cities' internal complaint processes, August 2023.

Like Austin, surveyed cities who do not allow police officers to submit anonymous internal complaints said that the department cannot prevent anonymous complaints from occurring. If the department receives an internal anonymous complaint, such as an anonymous letter left on a desk, the complaint will be reviewed for additional evidence. A complaint found to have additional supportive evidence will be routed to the appropriate chain of command and a formal complaint may be initiated and lead to an investigation.

External Anonymous Complaints

We found all surveyed cities have an independent entity that may serve as a complaint acceptance center and have various methods for submitting complaints of officer misconduct. Additionally, four of six cities noted an investigation may not be opened based solely on an anonymous complaint unless additional supporting evidence is collected.

Independent entities for acceptance of anonymous complaints

We found all surveyed cities have an independent entity where police officers can submit anonymous complaints of officer misconduct. An independent entity is separate from a city's police department. Most surveyed cities use a police oversight body or the city's Office of the Inspector General as their independent complaint acceptance center.

Methods for submitting anonymous complaints

We found all surveyed cities provide multiple methods for anyone, including a police officer, to file an anonymous complaint of officer misconduct through an independent entity.

Exhibit 3: All cities allow similar methods to submit anonymous complaints externally*

City	Phone	Online Form	In-Person	Mail
Austin	✓	✓	✓**	✓
Charlotte-Mecklenburg	✓	✓	✓	✓
Chicago	✓	✓	✓	✓
Dallas	✓	✓		
Fort Worth	✓	✓	✓	✓
Houston	✓	✓		
Seattle	✓	✓	✓	✓

*For this project, “externally” refers to complaints received through an entity outside of the police department (e.g., civilian oversight body).

** After the expiration of the meet and confer agreement, an affidavit is required for submitting an anonymous complaint.

Source: OCA analysis of surveyed cities’ methods to submit complaints to independent entities, August 2023.

Like Austin, all Texas cities surveyed and the City of Charlotte-Mecklenburg, noted an investigation may not be opened unless additional evidence is collected that supports the allegation. The City of Chicago noted they require an affidavit for anonymous complaints lodged against police officers with the following rank: sergeant, lieutenant, or captain. However, an Affidavit Override request can be made if the complaint warrants an investigation. The City of Seattle said they allow officers to submit anonymous complaints without an affidavit because they want to make it as easy as possible for employees to come forward with their concerns.

Similar to Austin, all cities surveyed noted anonymous complaints are recorded in a tracking software. The City of Chicago and the City of Seattle said they count the number of anonymous complaints received and publish those numbers. Most surveyed cities stated that anonymous complaints make up a small percentage of complaints about police officers received.

Question 3

What information is available regarding the impacts of those policies and differences between cities that do and do not permit anonymous complaints by police officers?

The cities contacted by us indicated it is not feasible to assess how their policies impact anonymous complaints by police officers. Some cities shared their perceptions of the anonymous complaint process. It appears based on what cities said that Seattle and Charlotte-Mecklenburg favor the process while Dallas refutes it.

Information shared by contacted cities

In the City of Seattle, the Seattle Police Department is striving to create an environment where employees feel comfortable sharing their concerns, as this can lead to improvements in both the workplace and the way policing is conducted in the community. By refusing to accept anonymous complaints, a city may be overlooking a chance to address issues before they escalate into legal disputes.

In the City of Dallas, there's reluctance to increase the acceptance of anonymous complaints. This hesitation arises because the police department already receives a substantial number of complaints.

In the City of Charlotte-Mecklenburg, many officers who have been the subject of a complaint value the thorough investigation process. It would be a cultural shift for the department to implement obstacles for making anonymous complaints.

Based on our work, we noted in 2019, the City of Chicago entered a consent decree⁷ to reform the Chicago Police Department. The 2019 consent decree between the police department and the City of Chicago changed the legal requirements for the anonymous complaint process. The consent decree mandates the City of Chicago to have a website available to CPD officers to anonymously report officer misconduct. It also requires that the City will make their best efforts to conduct an administrative investigation despite the absence of a signed complainant affidavit. These consent decree mandates are still in the process of being reviewed and implemented.

In addition, prior to 2020, the City of Chicago required an affidavit for any complaint against an officer to proceed to investigation. This requirement was reflected both in union contracts and Illinois state law. The union contracts did not allow anonymous complaints against supervisory officers to go to investigation. However, the Chicago Mayor successfully negotiated with their police union in June 2020 to allow those anonymous complaints against supervisory officers to be investigated.

⁷ A consent decree is a formal legal agreement between two parties, typically in a lawsuit or legal dispute.

In our research, we noted the Internal Association of Chiefs of Police provided the following guidance⁸ to inform practices for anonymous complaints by police officers:

- Police officers should be required by Department policy to report misconduct by other officers.
- Complainants should be provided with the opportunity to submit complaints in person, over the phone, in writing, or via the Internet.
- Police Departments should facilitate internal reporting practices by providing employees with anonymous or confidential reporting protocols. Reasonable measures should be taken to protect the identity of any employee who reports misconduct or behavior that could jeopardize the lives, safety, and well-being of employees or the public, or damage the agency's reputation.

⁸ See <https://www.theiacp.org/resources/policy-center-resource/employee-misconduct>.

Why We Did This Report

This report responds to a request sponsored by Council Member José “Chito” Vela and co-sponsored by Council Member Vanessa Fuentes. The request aimed to understand the City’s process for acceptance of anonymous complaints submitted by police officers including how the City’s process compares to those of other cities.

Scope

This project included the City’s practices for acceptance of anonymous complaints of misconduct submitted by police officers before and after the expiration of the meet and confer agreement.

Methodology

To complete this special request, we performed the following steps:

- Interviewed staff from the Austin Police Department and Office of Police Oversight about the City’s process for acceptance of anonymous complaints submitted by police officers
- Identified and selected cities inside and outside of Texas
- Conducted interviews with Internal Affairs and Police Oversight staff from selected cities
- Reviewed State of Texas, City of Austin, and peer cities legal mandates to understand their processes to accept anonymous complaints of misconduct submitted by police officers
- Researched industry practices related to acceptance of complaints of misconduct from the police officers

Project Type

Special request projects conducted by the Office of the City Auditor are considered non-audit projects under Government Auditing Standards and are conducted in accordance with the ethics and general standards.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve City services. Special requests are designed to answer specific questions to assist Council in decision-making. We do not draw conclusions or make recommendations in these reports.

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