

2. the misappropriation of funds, supplies, or another City resource, including but not limited to fraud, theft, embezzlement, and misrepresentation;
3. the intentionally improper handling of or reporting of money or financial transactions;
4. the intentionally improper destruction or removal of records or other City resources;
5. the misuse of official City information for personal benefit; or
6. the misuse of City employment to obtain a personal gain or favor from a member of the public or from another City employee.

“Investigation” means an investigation of wrongdoing.

“Waste” means:

1. the grossly inefficient or uneconomical use of City assets or resources; or
2. unnecessarily incurring costs to the City as a result of grossly inefficient practices, systems, or controls.

“Wrongdoing” includes;

1. fraud, waste, or abuse; or
2. an illegal act in connection with a City program, function or activity.

ROLES AND RESPONSIBILITIES

- A. The City Manager expects all City employees to:
 1. uphold the public trust,
 2. avoid wrongdoing,
 3. avoid behavior that a reasonable observer could perceive as wrongdoing,
 4. support efforts to prevent, detect, investigate, and correct wrongdoing,
 5. be aware of and comply with all laws and policies, and
 6. adhere to the highest standards in:
 - a. decision making,
 - b. the exercise of the powers entrusted to the employee as a public servant, and
 - c. the stewardship of public property under the employee's control.
- B. The City Manager expects supervisors and managers to:
 1. be knowledgeable about the content and operation of the City's compliance and ethics programs;
 2. exercise reasonable oversight with respect to the implementation of the City's compliance and ethics programs;
 3. create and maintain a working environment for employees in which doing the right thing is:
 - a. expected;
 - b. valued;
 - c. rewarded; and
 - d. protected;
 4. initiate appropriate measures to prevent, detect, investigate, and correct wrongdoing;
 5. implement necessary management controls to prevent and detect wrongdoing;
 6. investigate allegations of wrongdoing, or refer allegations of wrongdoing to an appropriate investigative authority; and
 7. protect an employee who reports wrongdoing in good faith from retaliation.

CORRESPONDING PROCEDURES AND POLICIES

City of Austin Personnel Policy: Reporting Fraud or Other Illegal Acts

PROCEDURE

Reporting

- A. Where to Report.
1. An employee who knows of or suspects wrongdoing shall report the wrongdoing immediately to the employee's manager or supervisor, or if that is not feasible, to the next highest person in the employee's chain of command to whom the employee may comfortably report the wrongdoing, including the department director, the assistant city manager, and the city manager.
 2. A City employee who is contacted by a member of the public who alleges wrongdoing shall immediately report the allegation to the employee's department director, the director of the department in which the wrongdoing is alleged to have occurred, or to the City Manager's office.
 3. A supervisor or manager who is contacted by a subordinate or by another City employee who alleges wrongdoing shall immediately report the allegation to the department director, the director of the department in which the wrongdoing is alleged to have occurred, or to the City Manager's office.
 4. An employee who is uncomfortable reporting wrongdoing through the employee's chain of command may report wrongdoing to the City Auditor's Office, the Human Resources Department, or a law enforcement agency.
- B. The City Auditor shall maintain a hotline for receiving reports of wrongdoing.
- C. A supervisor or manager may not retaliate in any way against an employee who, in good faith, reports wrongdoing. The Personnel Policy on "Reporting Fraud Or Other Illegal Acts" is incorporated by reference. Each supervisor and manager shall become familiar with the protection afforded to employees who report wrongdoing in good faith under that policy and under state law. Each supervisor and manager shall consult with the City Attorney or the Human Resources Department before taking an adverse personnel action against a City employee who reports wrongdoing.

Notification

- A. A department director shall notify the Assistant City Manager with oversight over the department, the City Manager, and either the Human Resources Department, the City Auditor, or the Austin Police Department if an allegation of wrongdoing concerns:
1. more than a routine administrative or personnel matter;
 2. more than a technical or de minimis violation of law or policy;
 3. a matter of heightened public interest;
 4. a violation of the public trust by an official or employee in a position of discretion or responsibility; or
 5. the loss, or exposure to loss, of a significant City resource or amount of money.
- B. The notice required above should be provided as follows:
1. in the case of a human resources matter, the Human Resources Department;

2. in the case of an allegation of fraud or financial wrongdoing, the City Auditor;
 3. in the case of criminal wrongdoing, the Austin Police Department; or
 4. if a director is unsure which department should receive the notice, the director may notify any of the three departments enumerated above. The department receiving the notice shall refer the notice to the appropriate department.
- C. The Human Resources Department, in consultation with the City Auditor, the City Attorney, and the Austin Police Department may issue guidelines to help department directors determine into which of the categories enumerated above an allegation should be assigned.

Investigations

- A. Responsibility.
1. Each department director is responsible for insuring the proper investigation of allegations of wrongdoing in the director's department.
 2. When the City Manager, the City Auditor, the Austin Police Department, or the Human Resources Department initiates an investigation, or takes over the conduct of an investigation, the City Manager, the City Auditor, the director of Human Resources, or the commander in charge of the Austin Police Department's Integrity Crimes Unit, respectively, is responsible for the investigation. Unless it would compromise the investigation to do so, the person responsible for the investigation shall notify the director of the department in which the wrongdoing is alleged to have occurred of the investigation.
 3. Notwithstanding any other provision of this administrative bulletin, the City Manager may assign responsibility for an investigation to any of the manager's subordinates.
- B. Assistance and Referral.
1. The person responsible for an investigation shall obtain the advice of the City Attorney, the City Auditor, the Financial Services Department, the Human Resources Department, the Police Department, and the Integrity Office, as appropriate in carrying out an investigation. The person responsible for an investigation should consider the complexity of a matter, the need for independence, and the needs for expertise in deciding whether to ask for assistance with an investigation.
 2. A department director may refer an investigation to:
 - a. in the case of a human resources matter, the Human Resources Department;
 - b. in the case of an allegation of fraud or financial wrongdoing, the City Auditor; or
 - c. in the case of criminal wrongdoing, the Austin Police Department.
 3. Except as provided by VII. A. 3., a department director shall refer an investigation to the Human Resources Department, the City Auditor, or Austin Police Department as provided above if the allegation of wrongdoing concerns:
 - a. more than a routine administrative or personnel matter;
 - b. more than a technical or de minimis violation of law or policy;
 - c. a matter of heightened public interest;
 - d. a violation of the public trust by an official or employee in a position of discretion or responsibility; or
 - e. the loss, or exposure to loss, of a significant City resource or amount of money.
 4. If a department director refers an investigation to the City Auditor, the Austin Police Department, or the Human Resources department any one of those departments, in consultation with the others, may:
 - a. take over the conduct of the investigation;
 - b. assist the originating department in conducting the investigation; or

- c. refer the investigation back to the originating department for investigation.

C. Conduct of an Investigation.

1. A City agent or employee who is responsible for an investigation shall:
 - a. ensure that an investigation is conducted professionally and competently,
 - b. ensure that an investigation is properly documented,
 - c. preserve evidence,
 - d. preserve access to witnesses,
 - e. protect the rights of everyone involved,
 - f. preserve workplace safety, and
 - g. manage risk to the City.
2. A City agent or employee who is participating in an investigation shall:
 - a. avoid accusations;
 - b. avoid alerting suspected individuals that an investigation is underway;
 - c. avoid making statements which could provide a basis for a suit for false accusation or other offenses;
 - d. in the case of an investigation of a matter described in subpart B.3., not contact the suspected individual to determine facts or demand restitution unless specifically directed to do so by the Human Resources Department, the City Auditor's Office, or the Austin Police Department;
 - e. not discuss any facts, suspicions or allegations associated with the case with anyone who is not connected with the conduct of the investigation;
 - f. unless otherwise instructed by the person responsible for the investigation, direct all inquiries from the suspected individual, or the suspected individual's representative to the City Attorney's office.
3. Each City employee shall fully cooperate with an investigation.

D. The Management Integrity Committee.

1. The Management Integrity Committee consists of the City Auditor, the City Attorney, and an Assistant City Manager designated by the City Manager.
2. The Management Integrity Committee shall:
 - a. define and oversee working relationships among the City Auditor, law enforcement authorities, and city management;
 - b. reduce barriers and coordinate communication among the City Auditor, law enforcement authorities, and city management;
 - c. facilitate access to records;
 - d. develop citywide guidelines for referring cases for prosecution;
 - e. recommend policies and procedures related to preventive, detective, and corrective internal controls;
 - f. monitor remedies to ensure consistency City-wide;
 - g. ensure that appropriate referrals are made to appropriate law enforcement authorities when potential criminal violations are suspected to have occurred;
 - h. as needed, advise the appropriate level of management to take immediate action to protect public safety or to protect employees from retaliation (for example, get an employee out of a situation through temporary assignment);
 - i. advise the City Manager's office of ongoing or underlying internal control deficiencies identified in more than one case;
 - j. ensure the City Manager's office is kept informed of progress being made to complete high profile or especially sensitive investigations.

Confidentiality

A. Internal Confidentiality.

1. In order to protect the reputation of an innocent person, to avoid liability, and to protect the possibility of recovery, activities associated with ongoing investigations may only be discussed with:

- a. a City officer, employee, or agent with a need to know, or who is participating in or advising the investigation;
 - b. a person participating in the investigation; a person who is questioned or asked to provide information in furtherance of the investigation; and
 - c. a representative of a law enforcement agency or regulatory body with jurisdiction over the matter being investigated.
 - 2. A city employee who is aware of an investigation shall act to:
 - a. ensure that the investigation is not compromised or prejudiced; and
 - b. ensure that the City's rights are not compromised.
- B. External Confidentiality.
 - 1. City employees participating in an investigation shall handle complaints about misconduct with discretion.
 - 2. If an employee responsible for handling a request under the Public Information Act receives a request related to an investigation of which the employee is aware, the employee shall immediately advise the person responsible for the investigation and the Law Department of the request.
 - 3. Because the City is subject to the Public Information Act, and because it may be necessary for a witness to come forward to cooperate with an investigation or to serve as a witness in a legal proceeding, a person conducting an investigation shall seek advice from the Law Department before assuring an informant of confidentiality.
- C. Confidentiality regarding personnel actions.
 - 1. A City employee has no expectation of privacy or confidentiality with respect to information regarding the employee's job performance, including the reasons for an employee's dismissal, demotion, promotion, or resignation, or any other personnel action.

Management Response

- A. If during an investigation a department director becomes aware of a weakness in management controls that would expose the City to current or ongoing risk, the director shall immediately inform the City Manager.
- B. After an investigation is complete a department director shall provide a report of the investigation and the director's disposition of the matter to the City Manager, and to the Director of the Human Resources Department.
- C. Each department director is responsible for taking any appropriate personnel action based on the outcome of an investigation. Personnel actions should not depend on the outcome of any criminal process or wait on a criminal process or criminal investigation.
- D. Where appropriate, a department director should inform a complainant of the outcome of an investigation that was initiated because of the complaint and of any personnel actions or process changes taken as a result of the investigation.
- E. A department director shall immediately inform the City Manager of a case that is referred to APD for investigation or referred for criminal prosecution.
- F. When an investigation results in a department director adopting new procedures to avoid a recurrence of a problem, the department director shall advise the City Manager and the City Auditor.

G. The Human Resources Department shall retain copies of case files for reports created under this part.

FORMS

No standardized forms applicable.