

Complaint Handling and Disciplinary Procedures

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In an effort to improve the delivery of patient care and identify potential opportunities for system improvement, Boston EMS has promulgated the following policy and procedure. It is the goal of this Department to provide the highest standard of patient care and to treat all patients, their family members, and the public with dignity, compassion, and respect. Accordingly, any complaint concerning the quality of care, the way in which an individual was treated by a member of the Department, or system issues will be investigated thoroughly, objectively, and efficiently.

Whenever a person indicates a desire to file a complaint, the Department member so advised will encourage the complainant to speak to a supervisor and shall facilitate the referral in any way possible. Personnel will not dissuade a member of the public from filing a complaint or, if so authorized to receive a complaint, shall not refuse to do so.

DUTY TO COOPERATE

All employees of Boston EMS, regardless of rank, have a duty to cooperate during any Commission or departmental investigation. Cooperation includes being truthful and complete in the answers or statements provided. In order to preserve the confidentiality and integrity of a Professional Standards investigation, employees may sometimes be ordered by the investigator to not discuss the nature of the investigation, or the details of their interview, or in some cases even the fact that there is an investigation in progress.

DOCUMENTATION

Boston EMS utilizes an administrative incident management software tool as the primary means to record complaints against the department or any of its personnel, whether from citizens, outside agencies, hospitals or members of the Department. The initial documentation shall contain a detailed description of the nature of the complaint, including date; time and place; names or descriptions of Department employees involved in the incident; the names and addresses of witnesses, if known; and any other relevant information. Should the computerized data collection tool be unavailable, or the individual processing the complaint is not trained in its use, a complaint control form shall be used to record receipt of the complaint.

MANNER OF RECORDING COMPLAINTS

All complaints shall be received and recorded courteously. No person shall be denied an opportunity to register a complaint. When the information received from the complainant includes the complainant's name and address, the supervisor taking the complaint shall inform the complainant that he or she will be contacted by a member of the Department assigned to investigate the complaint. The complainant shall be advised to telephone Boston Emergency Medical Services' Professional Standards

Division at the EMS Administrative Headquarters if not contacted by a member of the Department within seventy-two hours of making the complaint.

1. Walk in Complaints: Whenever a person indicates a desire to make a complaint, that person shall be directed to a member of the Professional Standards Division or the nearest available supervisor or manager. If necessary, the complainant shall be assisted in making contact with a supervisor.
2. Telephone Complaints: Complainants contacting Dispatch Operations by telephone shall be referred to the Dispatch Operations Supervisor. If the supervisor is unavailable, the EMT Telecommunicator taking the call shall request the caller's name and call-back number. If the caller prefers to remain anonymous, the telecommunicator should encourage the caller to call back later when the supervisor is available or contact the Professional Standards Division at Boston EMS Headquarters during business hours. Complainants contacting any other areas of the Department by telephone shall be transferred to the Professional Standards Division or, if not available, to a supervisor who will obtain as much information as possible from the complainant and document receipt of the complaint. In no case shall a telephone complaint be refused because a supervisor is unavailable or because the complainant is not identified.
3. Written Complaints: Complaints received via letters, email, or other written form shall be immediately forwarded to the Professional Standards Division. A supervisor assigned to the Professional Standards Division will document receipt of the complaint and attach the written document (letter, email, fax, etc).
4. Complaints by a Department member alleging conduct that violates rights protected by law specifically of a sexual, racial, gender, sexual orientation, religious, national origin or age nature shall be recorded and processed in accordance with the Boston Public Health Commission's Anti-discrimination, harassment, and Retaliation policy.

IMMEDIATE RESOLUTION OF COMPLAINTS

All complaints, including those involving lost or missing property, resolved at the time of the initial complaint to the complainant's satisfaction shall be documented with a notation of the resolution and forwarded to Professional Standards Division.

NOTIFICATION OF PROFESSIONAL STANDARDS DIVISION

In addition to Professional Standards, the Chief of Department, Superintendent in Chief, and Superintendents (C1-5 in the paging system) and the Medical Director shall be notified immediately (24 hours/day, 7 days/week) upon receipt of a complaint of a major case alleging:

1. Physical abuse, death or serious injury resulting from the action or inaction of a Department employee;
2. The commission of a felony by a Department employee;
3. Major motor vehicle crash of a department vehicle resulting in any death or serious injury;

This immediate notification will be in addition to and separate from notifications that may be required in other procedures. If there is no response to the initial page, subsequent pages or alternate means of notification (cellular phone, etc.) shall be attempted.

MONITORING OF COMPLAINTS

Each complaint shall be assigned a unique identifying number so that the processing of complaints can be monitored.

The Professional Standards Division shall maintain a log of all complaints. The log shall record the complaint control number, the date the complaint was received, the name and rank of the supervisor who recorded the complaint, the name of the investigating department member, the date closed, and final disposition.

The Professional Standards Division will maintain a file of all cases investigated, including but not limited to any Complaint Control Form, tape cassettes, patient care reports, incident reports, investigatory reports, and response letter.

CONFIDENTIALITY OF INVESTIGATORY PROCESS

Records of the Professional Standards Division are considered confidential, and will be maintained in a secure manner. Prior to the completion of the investigation of a complaint, information concerning such an investigation shall not be released unless authorized by the Chief of Department or PHC General Counsel. The fact that a complaint was received and a departmental investigation is under way may be disclosed unless the Professional Standards Division determines that for security reasons or to protect the integrity of the investigation, that too should remain confidential.

INITIATING AN INVESTIGATION

Upon receipt or notification of a complaint concerning an employee on his or her shift or division, the Shift Commander or area manager will determine whether the matter can be appropriately dealt with at the shift level. Generally, types of complaints handled at the shift level involve relatively minor infractions such as tardiness, improper uniform, or other minor procedural errors. In such cases, the Shift Commander or area manager will document receipt of the complaint, and initiate an investigation or appoint an investigating officer. The Professional Standards Division will be notified of the complaint as soon as possible and may intervene at any time to assume control of the investigation. The Professional Standards Division will be kept informed about the status of all investigations in a timely manner.

If the Shift Commander or commanding officer determines that the complaint is not appropriate for investigation at the shift level, it shall be referred to the Professional Standards Division for investigation. In such cases, the Commander of the Professional Standards Division shall appoint an investigating officer, or may return the complaint to the commanding officer of the person that is the subject of the complaint for investigation at the shift level.

Upon receipt or notification of a complaint, the Commander of Professional Standards will make a determination whether the matter can be appropriately dealt with at the shift level. In such cases, the matter will then be referred to the appropriate Shift

Commander or commanding officer of the employee involved. If the complaint investigation will be conducted by the Professional Standards Division, the Shift Commander or manager of the person that is the subject of the complaint will be advised of the general nature of the complaint unless such notification might compromise the integrity of the investigation. The complainant, if known, will be sent a letter by Professional Standards within 72 hours of making a complaint indicating a contact person, telephone number, and the complaint control number.

A member of the Department who is identified as the subject of an investigation will be formally notified of the investigation as soon as possible so long as such notification would not jeopardize or compromise the investigation. An employee against whom a complaint has been made or any coworker shall not attempt, directly or indirectly, by threat, appeal, persuasion or the payment or promise of money or other things of value, to secure the withdrawal or abandonment of the complaint, or in any way penalize the complainant. Such actions will be dealt with very strictly by the Department.

In an effort to continually improve the quality of patient care rendered and as part of the overall investigation, the Medical Director or designee will review matters under investigation that involve a potential patient care issue. RTQI will assist in the determination as to whether the patient care was appropriate and in accordance with Department treatment protocols and standards. The results of these reviews shall be included in the quarterly reports compiled by the Professional Standards Division and provided to the Chief of Department and Medical Director.

All investigations will be conducted professionally and with prudence. At no time shall an investigator engage in any technique which violates civil or criminal law, Department policy or procedure, or the appropriate collective bargaining agreement in effect at the time of the investigation.

FACT-FINDING INTERVIEWS OF MEMBERS OF THE DEPARTMENT

The following provisions shall apply whenever, as part of an investigation of alleged violation of Department Policies and Procedures, a member of the department is ordered to submit to a fact-finding interview:

1. A fact-finding interview of a member of the department shall be at a reasonable hour, preferably when the member of the department is on duty, unless the urgency of the investigation dictate otherwise. No member shall suffer loss of pay for the time spent while being interviewed.
2. The fact-finding interview shall take place at a location designated by the investigating officer. If a member of the department is directed to leave his/her post and report for an interview, the commanding officer or shift commander shall be promptly notified of the member's whereabouts.
3. Whenever possible, interviews conducted as part of a Professional Standards investigation should be audio recorded or recorded by a stenographer.
4. The subject of the fact-finding interview may be entitled to have representation present during the interview. The representative(s) may not be another employee who is identified as being involved in the same allegation or incident. The

representative may participate to the extent permissible by law, but may not answer questions for the employee or unduly interfere with the interview.

5. If the interview becomes extended in duration, reasonable periodic breaks will occur.
6. The subject of the interview will be treated with courtesy and respect during the interview. There will be no offensive language, coercive behavior, threats of punitive action, or promises of reward. Employees must truthfully answer questions regarding matters pertaining to the scope of their employment and their fitness for duty posed by an investigator in an administrative investigation.
7. Prior to the administrative interview, the employee will be advised in writing (or orally, if the interview is being conducted by telephone and the conversation is recorded) of the following:

Your failure to provide the information requested, including any evasiveness, false statements, or failure to comply with any of the instructions given to you in connection with this investigation, may lead us to consider allegations against you as unchallenged or unrefuted. In addition, your failure to cooperate may lead to disciplinary action against you, including dismissal.

SEARCHES

Desks, lockers, storage space, rooms, offices, equipment, information systems, work areas, and vehicles that are the property of the Department are subject to inspection. They may also be searched to retrieve Boston EMS, Boston Public Health Commission, or City of Boston property, or to discover evidence of work related misconduct, if there is reason to suspect such evidence is there. Private property can be stored in areas mentioned above; however, employees should not expect privacy in those areas. Only those employees who are acting in their official capacity may be authorized by the Chief of Department, Superintendent-in-Chief, or Superintendent to search or inspect areas assigned to other employees.

INVESTIGATIVE REPORT

Complaint investigations should be completed and a summary report prepared within 30 days of the initiation of an investigation, though not at the expense of a thorough, objective investigation. If an investigation requires additional time to complete, the Superintendent of Field Support may authorize an extension of seven (7) days, however a status report must be submitted documenting the justification for the extension. There is no limit on the number of extensions that may be granted, providing there is adequate justification.

The investigator's report will summarize all evidence gathered during the investigation and will make a recommendation that the complaint be found:

1. Exonerated: The investigation showed that while the actions did occur, either the named employee was not involved, or the employee acted properly and reasonably;
or
2. Unfounded: The investigation revealed the alleged conduct did not occur; or
3. Not Sustained: The investigation failed to prove or disprove the allegations. This definition also includes incomplete investigations. An incomplete investigation is an

investigation that cannot be thoroughly or properly completed due to lack of cooperation by the complainant or witness(es) and / or physical evidence is not available.

4. Sustained: The investigation disclosed sufficient evidence to support allegations in the complaint; or
5. Misconduct Not Based on Complaint: There is substantiated evidence of employee misconduct that was not identified in the original complaint, but which was disclosed as a result of the investigation.
6. Policy/Procedure: The allegation is true, and although the action of the agency or individual is not inconsistent with existing agency policy or procedure, the complainant suffered harm.

Once submitted, the Commander of Professional Standards will review the investigatory report to ensure the investigation was adequate and the summary report is complete before forwarding up the chain of command for further review and disposition.

CORRECTIVE ACTION GUIDELINES FOR SUSTAINED ALLEGATIONS

A number of factors will be taken into consideration when deciding the appropriate disposition of an internal investigation that results in a “sustained” finding. While these decisions will be as inclusive and collaborative as possible, often times involving the Commander of Professional Standards; Shift Commander; Superintendents; PHC Labor Relations and Human Resources Department; and the EMS Medical Director, the ultimate authority for the adjudication of culpability and disposition of sustained complaints rests within EMS with the EMS Chief and within the Commission with the Executive Director.

SPECTRUM OF DISCIPLINE

Some collective bargaining agreements stipulate the terms under which disciplinary action may be taken, and how such action is recorded. All disciplinary matters shall be handled in accordance with applicable collective bargaining agreements and civil service law. In general, the spectrum of discipline is as follows:

Oral Counseling: An oral counseling is generally given for minor violations or multiple minor violations of the rules and regulations. A Supervisor issues this counseling formally and makes it clear to the involved member that while the counseling itself is not considered discipline, further violations will result in progressively stricter disciplinary action. The issuing supervisor will complete a written record of the oral counseling session, and forward a copy to the employee’s Shift Commander or Manager, and the Professional Standards Division.

Written Warning. Written warnings are issued or approved by a member of the Command Staff for minor offenses committed by employees for whom an oral counseling has proven ineffective, or for more serious offenses in which an oral counseling would be inappropriate. A copy of the written warning and all of the particulars relating to the offense will be sent to Professional Standards who in turn will forward a copy to PHC Office of Labor Relations and Human Resources.

Suspensions. Suspensions are periods of time during which an employee is relieved of duty and for which the employee is usually not paid. Whenever the Department is contemplating imposing a suspension of several days without pay, the employee may be entitled to a hearing in accordance with applicable collective bargaining agreements or civil service law.

Immediate Relief of Duty: Upon determination by a supervisor that an employee is in severe violation of the rules of conduct or other Department rule or regulation or is otherwise unfit for duty, he / she shall immediately temporarily relieve such person from duty and notify the Shift Commander or other member of the Command Staff. In circumstances making such action advisable or necessary, a member of the Command Staff may relieve a member from duty for the remainder of the shift pending further disciplinary action. A detailed written report of such action will immediately be forwarded to Professional Standards. Additional notifications of appropriate supervisors and Command Staff shall be performed as required. Whenever an employee is relieved of duty, emergency suspension from duty is not in and of itself a disciplinary measure. An employee may be required to report to work as directed (to the EMS Headquarters for example) or contact the Department for instructions on scheduled work days. All pay and benefits shall continue uninterrupted during any emergency or administrative suspension from duty.

Discharge or Reduction in Rank. An employee may be discharged or reduced in rank only after a formal department hearing or waiver of such hearing by the employee.

NOTIFICATIONS

If the investigation was inaugurated by a complaint from outside the department, upon completion of the investigation the Commander of the Professional Standards Division or designee will send a letter to the complainant informing him or her that the matter was investigated is now closed.

The accused employee will also be notified in writing of the final disposition of each allegation. This notification will occur as soon as practical after the disposition is made.

OVERSIGHT OF THE INVESTIGATORY PROCESS

The Superintendent of Field Support shall review all cases in an effort to identify trends, which represent opportunities for improvement in the Department's policies and procedures. The Professional Standards Division will provide a quarterly report concerning the status of investigations to the Superintendents, Superintendent in Chief, Medical Director, and Chief of Department.