

By: Coleman

H.B. No. 3364

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a Civilian Oversight Commission and local district complaint offices; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. CIVILIAN OVERSIGHT COMMISSION

SECTION 1.01. Subtitle B, Title 4, Government Code, is amended by adding Chapter 422 to read as follows:

CHAPTER 422. CIVILIAN OVERSIGHT COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 422.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Civilian Oversight Commission.

(2) "Commissioner" means a commission member.

(3) "Director" means a district complaint office director.

(4) "District complaint office" means a civilian oversight district complaint office established under Section 422.301.

Sec. 422.002. APPLICATION OF SUNSET ACT. The Civilian Oversight Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2017.

Sec. 422.003. APPLICABILITY. This chapter applies to:

(1) all governmental entities in this state, including

1 state agencies and local governments of any type;

2 (2) any business, nonprofit organization, or other
3 group that acts on behalf of a governmental entity under a contract
4 with the governmental entity; and

5 (3) employees of a governmental entity or of a group
6 described by Subdivision (2).

7 Sec. 422.004. GOVERNMENTAL AND PRIVATE IMMUNITY WAIVED.

8 (a) This chapter prevails over any statute providing immunity for a
9 governmental entity or a person who receives money from a
10 governmental entity.

11 (b) This chapter serves as a waiver of any governmental
12 immunity provided by a statute or other law that conflicts with this
13 chapter.

14 Sec. 422.005. CONFLICT OF RULES REGARDING EMPLOYEE
15 MISCONDUCT AND RECORDS. A commission rule relating to employee
16 misconduct or records of disciplinary actions or allegations of
17 misconduct prevails over a conflicting rule adopted by a county or
18 municipality, including a rule adopted by a county or municipal
19 civil service commission or county or municipal police civil
20 service commission.

21 Sec. 422.006. CONFLICT OF LAWS REGARDING LOCAL DISCIPLINARY
22 RECORDS. In the event of a conflict between this chapter and
23 Section 143.1214, Local Government Code, this chapter prevails.

24 Sec. 422.007. CHOICE OF LAW REGARDING EMPLOYEE COMPLAINTS
25 OR REPORTS OF ABUSE. (a) This chapter prevails over a statute or
26 policy relating to government employees or employees of any
27 business, nonprofit organization, or other group that acts on

1 behalf of a governmental entity that requires the employees to file
2 complaints or reports of abuse to superiors or specified
3 governmental entities before contacting any other governmental or
4 private investigative body.

5 (b) This chapter entitles a government employee to file a
6 complaint with the commission, a district complaint office, or any
7 investigative body that the employee chooses.

8 Sec. 422.008. CONFLICT OF LAWS REGARDING INVESTIGATIONS AND
9 INTERROGATIONS OF GOVERNMENT EMPLOYEES. In the event of a conflict
10 between this chapter and a statute or bargaining agreement relating
11 to investigations and interrogations of government employees, this
12 chapter prevails.

13 [Sections 422.009-422.050 reserved for expansion]

14 SUBCHAPTER B. CIVILIAN OVERSIGHT COMMISSION

15 Sec. 422.051. COMPOSITION. The commission is composed of
16 three members elected statewide.

17 Sec. 422.052. ELECTION. The election for commissioners
18 shall be held on the general election date for state and county
19 officers under Section 41.002, Election Code.

20 Sec. 422.053. TERMS. Commissioners serve staggered
21 six-year terms.

22 Sec. 422.054. ELIGIBILITY. (a) A commissioner must:

- 23 (1) reside in this state;
24 (2) be registered to vote in this state; and
25 (3) be at least 30 years of age.

26 (b) A person may not be a commissioner if the person or a
27 person related to that person by affinity or consanguinity within

1 the first degree, as determined by Chapter 573:

2 (1) has held an elected or appointed government office
3 in this state in the three-year period preceding the date of the
4 commissioner's election or appointment;

5 (2) is associated directly or indirectly with a
6 municipality or state agency;

7 (3) has been a government employee in a managerial or
8 supervisory position who exercised substantial policy discretion
9 on employment or law enforcement matters in the five-year period
10 preceding the date of the commissioner's election or appointment;
11 or

12 (4) has been a police officer, criminal investigator,
13 special agent, lawyer, or prosecutorial attorney for a
14 municipality, county, or state agency in the 10-year period
15 preceding the date of the commissioner's election or appointment.

16 (c) A person may not be a commissioner if the person is
17 directly or indirectly interested in a government stock, bond,
18 mortgage, security, contract, sale, lease, or grant.

19 Sec. 422.055. LIMIT ON CERTAIN CAMPAIGN CONTRIBUTIONS. A
20 person seeking election as a commissioner may receive campaign
21 contributions only directly from individuals.

22 Sec. 422.056. OATH OF OFFICE. Before assuming the duties of
23 office, a commissioner must swear or affirm that the commissioner
24 meets the eligibility requirements under Sections 422.054 and
25 422.055.

26 Sec. 422.057. TRAINING. (a) A person who is elected or
27 appointed to and qualifies for office as a member of the commission

1 may not vote, deliberate, or be counted as a member in attendance at
2 a meeting of the commission until the person completes a training
3 program that complies with this section.

4 (b) The training program must provide the person with
5 information regarding:

6 (1) this chapter and the commission's programs,
7 functions, rules, and budget;

8 (2) the results of the most recent formal audit of the
9 commission;

10 (3) the requirements of laws relating to open
11 meetings, public information, administrative procedure, and
12 conflicts of interest; and

13 (4) any applicable ethics policies adopted by the
14 commission or the Texas Ethics Commission.

15 (c) A person elected or appointed to the commission is
16 entitled to reimbursement, as provided by the General
17 Appropriations Act, for the travel expenses incurred in attending
18 the training program regardless of whether the attendance at the
19 program occurs before or after the person qualifies for office.

20 Sec. 422.058. VACANCY. The governor by appointment shall
21 fill the unexpired term of a commission vacancy.

22 Sec. 422.059. PRESIDING OFFICER. At least once every two
23 years, the commission shall meet in Austin, Texas, and elect a
24 commissioner to serve as presiding officer.

25 Sec. 422.060. GROUNDS FOR REMOVAL OF COMMISSIONER. (a) It
26 is a ground for removal from the commission that a commissioner:

27 (1) does not have at the time of taking office the

1 qualifications required by Section 422.054 or 422.055;

2 (2) does not maintain during service on the commission
3 the qualifications required by Section 422.054;

4 (3) cannot, because of illness or disability,
5 discharge the commissioner's duties for a substantial part of the
6 commissioner's term; or

7 (4) is absent from more than half of the regularly
8 scheduled commission meetings that the commissioner is eligible to
9 attend during a calendar year without an excuse approved by a
10 majority vote of the commission.

11 (b) The validity of an action of the commission is not
12 affected by the fact that it is taken when a ground for removal of a
13 commissioner exists.

14 (c) If a director or commissioner has knowledge that a
15 potential ground for removal exists, the director or commissioner
16 shall notify the presiding officer of the commission of the
17 potential ground. The presiding officer shall then notify the
18 governor and the attorney general that a potential ground for
19 removal exists. If the potential ground for removal involves the
20 presiding officer, the director or commissioner shall notify the
21 next highest ranking officer of the commission, who shall then
22 notify the governor and the attorney general that a potential
23 ground for removal exists.

24 Sec. 422.061. COMPENSATION; REIMBURSEMENT. (a) A
25 commissioner shall receive compensation as provided by the General
26 Appropriations Act.

27 (b) A commissioner is entitled to reimbursement for actual

1 and necessary expenses incurred in performing functions as a
2 commissioner, subject to any applicable limitation on
3 reimbursement provided by the General Appropriations Act.

4 Sec. 422.062. MEETINGS. The commission may meet at any
5 place in the state, as necessary to fulfill commission duties.

6 Sec. 422.063. GOVERNING PROCEDURES. The commission may
7 adopt procedures to govern the conduct of its meetings and other
8 general affairs.

9 [Sections 422.064-422.100 reserved for expansion]

10 SUBCHAPTER C. DISTRICT COMPLAINT OFFICE DIRECTORS

11 AND OTHER PERSONNEL

12 Sec. 422.101. DIRECTOR. (a) The commission shall hire a
13 director to manage each district complaint office.

14 (b) The director must meet the eligibility requirements of
15 Section 422.054.

16 (c) The director shall administer the activities of that
17 director's district complaint office.

18 Sec. 422.102. SECRETARY. The commission and each director
19 may employ a secretary. A secretary employed under this section
20 shall keep correct minutes of all transactions and proceedings of
21 the commission or the applicable district complaint office, record
22 each complaint assigned an investigative team under Section
23 422.352, and perform any other duties required by the commission or
24 director.

25 Sec. 422.103. DISTRICT COMPLAINT OFFICE PERSONNEL;
26 ELIGIBILITY. (a) A director may hire and supervise employees as
27 necessary to exercise a district complaint office's powers and

1 duties, including investigative managers and teams.

2 (b) A full-time employee of a district complaint office may
3 not be a government officer or be employed by any other governmental
4 entity. The employee may not engage in any occupation, business, or
5 personal activity inconsistent with the employee's duties, as
6 determined by the commission. A violation of this subsection is a
7 ground for dismissal of the employee.

8 (c) A person is not eligible for employment by a district
9 complaint office if the person was an employee of or otherwise
10 received money from a governmental entity and worked for the
11 governmental entity in the following fields:

- 12 (1) human services;
13 (2) law enforcement; or
14 (3) legal professional services.

15 (d) For the purposes of Subsection (c), experience in the
16 field of human services, law enforcement, or legal professional
17 services includes experience as a criminal investigator, special
18 agent, police officer, lawyer, prosecutorial attorney, or
19 supervisory or managerial employee who exercised substantial
20 policy discretion on employment and law enforcement matters in a
21 governmental entity or in a private business.

22 (e) A director may establish additional hiring
23 qualifications for employees.

24 Sec. 422.104. COMMISSION PERSONNEL. The commission and
25 directors may hire other employees as necessary to implement this
26 chapter.

27 Sec. 422.105. USE OF TEXAS BUILDING AND PROCUREMENT

1 COMMISSION SERVICES. (a) On the request of the commission's
2 presiding officer or a director, the Texas Building and Procurement
3 Commission shall provide to the commission, or applicable district
4 complaint office, administrative support services necessary to
5 implement this chapter.

6 (b) The commission shall reimburse the Texas Building and
7 Procurement Commission for the services.

8 Sec. 422.106. USE OF OTHER STATE AGENCY STAFF. (a) On the
9 request of the commission's presiding officer or a director, a
10 state agency may provide to the commission, or applicable district
11 complaint office, any personnel that may assist the commission or
12 director in implementing this chapter.

13 (b) The commission shall reimburse the state agency for the
14 use of the personnel.

15 Sec. 422.107. DIVISION OF RESPONSIBILITIES. The commission
16 shall develop and implement policies that clearly separate the
17 policy-making responsibilities of the commission and the
18 management responsibilities of district complaint offices, and the
19 directors and staff of the district complaint offices and
20 commission.

21 Sec. 422.108. EXPERTS. An expert contracted with by the
22 commission or a director may not be a government officer or be
23 employed by any other governmental entity. The expert may not
24 engage in any occupation, business, or personal activity
25 inconsistent with the purpose for which the expert was hired, as
26 determined by the commission. A violation of this section is a
27 ground for termination of the contract with the expert.

1 Sec. 422.109. REMOVAL OF DIRECTOR OR OTHER EMPLOYEE. (a) A
2 person who is a director or other employee of the commission or a
3 district complaint office, or an expert hired by the commission or a
4 district complaint office, may be suspended or removed from the
5 position if, at a meeting held for that purpose, the commission
6 finds that the person has:

7 (1) violated ethical standards;

8 (2) engaged in other misconduct; or

9 (3) failed to faithfully and justly execute this
10 chapter.

11 (b) The person may request that the notification of removal
12 or suspension hearing be held as an open meeting under Chapter 551.

13 (c) A director or other employee removed or suspended under
14 this section may petition in district court for the removal or
15 suspension to be set aside.

16 (d) If the person is indicted or charged with a criminal
17 offense, the person must be suspended from the person's duties
18 until the disposition of the charge. Unless the person pleads
19 guilty or is found guilty, the person shall resume duties at the
20 time of disposition of the charge. If a director is suspended from
21 duties until the disposition of the charge, the district complaint
22 office's managerial staff may appoint a substitute director during
23 the suspension.

24 (e) If the person is found guilty or pleads guilty to the
25 criminal charge:

26 (1) the director shall hire a replacement to fill the
27 position; or

1 (2) the commission shall hire a replacement director
2 if the person who is found guilty or pleads guilty is a director.

3 Sec. 422.110. TASK FORCE. (a) As used in this section,
4 "task force" means a specialized unit of the commission or a
5 district complaint office.

6 (b) A director may assign a task force to study issues
7 relevant to the implementation of this chapter, including policies
8 and procedures relating to the operation and functions of
9 governmental entities.

10 Sec. 422.111. TRACK TREND ASSISTANT. A director may assign
11 a track trend assistant to track trend stitches on issues such as
12 racial profiling and other categories of complaints received by the
13 district complaint office.

14 [Sections 422.112-422.150 reserved for expansion]

15 SUBCHAPTER D. GENERAL POWERS AND DUTIES

16 Sec. 422.151. RULES. The commission may adopt rules to
17 implement this chapter.

18 Sec. 422.152. CONTRACTS. (a) The commission may contract
19 with persons as necessary to implement this chapter.

20 (b) A director may contract under this section on behalf of
21 the commission as necessary to operate the director's district
22 complaint office.

23 Sec. 422.153. COMMISSION INVESTIGATIONS AND INSPECTIONS.
24 The commission or a commissioner designated by the commission may
25 investigate and report on any matter relating to the enforcement
26 and effect of this chapter, any rule adopted under this chapter, and
27 whether the chapter and rules are being obeyed.

1 Sec. 422.154. TRAINING. (a) The commission shall develop:

2 (1) the training required under Section 422.057; and

3 (2) training for district complaint offices,
4 including directors and staff.

5 (b) In cooperation with directors, the commission shall
6 establish an introductory and ongoing training program for district
7 complaint office investigators and investigative teams.

8 Sec. 422.155. USE OF TECHNOLOGY. The commission shall
9 implement a policy requiring the commission to use appropriate
10 technological solutions to improve the commission's ability to
11 perform its functions. The policy must ensure that the public is
12 able to interact with the commission using the Internet.

13 Sec. 422.156. NEGOTIATED RULEMAKING AND ALTERNATIVE
14 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop
15 and implement a policy to encourage the use of:

16 (1) negotiated rulemaking procedures under Chapter
17 2008 for the adoption of commission rules; and

18 (2) appropriate alternative dispute resolution
19 procedures under Chapter 2009 to assist in the resolution of
20 internal and external disputes under the commission's
21 jurisdiction.

22 (b) The commission's procedures relating to alternative
23 dispute resolution must conform, to the extent possible, to any
24 model guidelines issued by the State Office of Administrative
25 Hearings for the use of alternative dispute resolution by state
26 agencies.

27 (c) The commission shall designate an appropriately trained

1 person to:

2 (1) coordinate the implementation of the policy
3 adopted under Subsection (a);

4 (2) serve as a resource for any training needed to
5 implement the procedures for negotiated rulemaking or alternative
6 dispute resolution; and

7 (3) collect data concerning the effectiveness of the
8 procedures, as implemented by the commission.

9 Sec. 422.157. ANNUAL REPORT. The commission shall annually
10 report to the governor, the lieutenant governor, and the speaker of
11 the house of representatives. The report must describe the
12 commission's activities and summarize the actions of the commission
13 and district complaint offices.

14 Sec. 422.158. EXTERNAL AUDIT. At least once every two
15 years, the commission shall initiate an external audit of all
16 complaints received or acted on in any manner by district complaint
17 offices.

18 Sec. 422.159. SHARING OF OFFICIAL INFORMATION; STANDARDS.
19 (a) On request by the commission's presiding officer or a director,
20 a governmental entity shall provide to the commission or applicable
21 district complaint office any information that the commission or
22 director considers necessary to implement this chapter.

23 (b) The commission shall develop standards regarding the
24 sharing of information between the commission, district complaint
25 offices, governmental entities, and persons who contract with or
26 partner with governmental entities.

27 Sec. 422.160. OPEN RECORDS EXCEPTION REGARDING LAW

1 ENFORCEMENT AND PROSECUTORIAL INFORMATION. Section 552.108 does
2 not apply to information requested by the commission or a district
3 complaint office under this chapter.

4 [Sections 422.161-422.200 reserved for expansion]

5 SUBCHAPTER E. PUBLIC INTEREST INFORMATION

6 AND COMPLAINT PROCEDURES

7 Sec. 422.201. PUBLIC INTEREST INFORMATION. (a) The
8 commission shall prepare information of public interest describing
9 the functions of the commission and district complaint offices and
10 the procedures by which complaints are filed with and resolved by
11 the commission, the executive director, and district complaint
12 offices.

13 (b) The commission shall make the information available to
14 the public and appropriate governmental entities.

15 Sec. 422.202. CIVILIAN AND EMPLOYEE COMPLAINTS. (a) A
16 person may file a written complaint under this chapter against a
17 governmental entity, an employee of that entity, or a business,
18 nonprofit organization, or other group that acts on behalf of a
19 governmental entity under a contract with the governmental entity,
20 including the employees of the business, nonprofit organization, or
21 other group.

22 (b) The person must:

23 (1) allege in the complaint that the defendant has
24 engaged in misconduct described by Section 422.251; and

25 (2) submit the complaint describing the alleged
26 misconduct to the commission or a district complaint office.

27 (c) The person who files the complaint is not required to be

1 the alleged victim.

2 (d) A complaint filed by a person under this chapter is in
3 addition to any other remedy available to the person.

4 Sec. 422.203. STATUTE OF LIMITATIONS. (a) An allegation in
5 a complaint filed under this chapter must be filed with the
6 commission or a district complaint office not later than 18 months
7 after the date of the alleged misconduct.

8 (b) This section does not apply to alleged misconduct that
9 is also a crime.

10 Sec. 422.204. COMPLAINTS SYSTEM. (a) The commission shall
11 develop a system to promptly and efficiently act on complaints
12 filed with the commission and district complaint offices. The
13 commission or district complaint office shall maintain information
14 regarding parties to a complaint, the subject matter of the
15 complaint, a summary of the results of the review or investigation
16 of the complaint, and its disposition.

17 (b) The commission shall make information available
18 describing its procedures for complaint investigation and
19 resolution.

20 (c) The commission or district complaint office shall
21 periodically notify the complaint parties in writing of the status
22 of the complaint until final disposition. The commission or the
23 district complaint office shall provide the complaint parties a
24 name, address, and telephone number of an individual to contact in
25 order to give or obtain information regarding the complaint.

26 (d) In developing the system under this section, the
27 commission shall distinguish between those duties the district

1 complaint office is primarily responsible for and those duties for
2 which the commission remains primarily responsible.

3 Sec. 422.205. COMPLAINT FILE. (a) A file for a complaint
4 for which the commission or a district complaint office was able to
5 carry out a complete inquiry must contain information collected
6 from interviews with employees, the public, and other witnesses.

7 (b) The file must contain the final written report of the
8 investigator under Section 422.358.

9 Sec. 422.206. PUBLIC PARTICIPATION. The commission shall
10 develop and implement policies that provide the public with a
11 reasonable opportunity to appear before the commission and speak on
12 any issue under the jurisdiction of the commission.

13 Sec. 422.207. PUBLIC OUTREACH. (a) The commission shall
14 engage in community outreach to:

15 (1) educate the public concerning the purpose of the
16 commission and district complaint offices and the services
17 provided; and

18 (2) respond to comments and questions from the public
19 concerning issues relevant to the operation of the commission and
20 district complaint offices.

21 (b) As part of this public outreach, the commission shall
22 encourage persons in the public to file a complaint when the person
23 feels that the person has been a victim of misconduct by a
24 governmental entity or a business, nonprofit organization, or other
25 group that acts on behalf of a governmental entity under a contract
26 with the governmental entity.

27 (c) A director shall inform the public in the area covered

1 by that director's district complaint office about the commission,
2 the district complaint office, and the duties of each entity. The
3 director shall develop and administer an ongoing program for the
4 education of the public regarding the district complaint office's
5 activities.

6 Sec. 422.208. COMPLAINTS AGAINST COMMISSION OR DISTRICT
7 COMPLAINT OFFICES; APPEAL. (a) A person may file a complaint
8 against the commission, a director, an expert hired by a district
9 complaint office, or an employee of a district complaint office,
10 only as provided by this section.

11 (b) The person complaining must file in a district court in
12 Travis County a petition that includes the particular cause of
13 objection and the names of the subjects of the complaint.

14 (c) The district court must give precedence to the petition
15 ahead of all other causes on the docket of a different nature,
16 except for a trial in session in the district court.

17 (d) The district court shall try and determine the petition
18 in the same manner as other causes in the court. To prevail in the
19 district court, the petitioner must prove by clear and satisfactory
20 evidence that the defendant acted unreasonably and unjustly
21 regarding a complaint filed with the defendant under this chapter.

22 (e) A party may appeal the result in the district court. An
23 appellate court must give precedence to the appeal ahead of all
24 other appeals in that court of a different nature.

25 [Sections 422.209-422.250 reserved for expansion]

26 SUBCHAPTER F. ADDITIONAL CIVILIAN OVERSIGHT POWERS AND DUTIES

27 Sec. 422.251. JURISDICTION FOR CERTAIN COMPLAINTS. The

1 commission and a district complaint office in the relevant
2 geographical area have jurisdiction to investigate a complaint that
3 alleges misconduct involving state laws, rules, policies,
4 procedures, ethical and community standards, and criminal behavior
5 relating to:

6 (1) excessive use of force;

7 (2) abuse of authority, including the improper use of
8 powers to threaten, intimidate or otherwise mistreat a member of
9 the public or a government employee, threats of force, termination
10 of employment, coercive sanctions, and unlawful acts, searches, and
11 seizures;

12 (3) obstruction of justice, including abuse of office,
13 abuse of official capacity, official oppression, violations of the
14 civil rights of a person, misuse of official information, bribery,
15 corrupt influence, and coercion;

16 (4) neglect of duty;

17 (5) misrepresentation of the facts relating to
18 disputed events and circumstances;

19 (6) occupational, personal, or sexual harassment; or

20 (7) discourtesy, including rude or obscene gestures or
21 the use of offensive language, including slurs relating to race,
22 ethnicity, religion, gender, sexual orientation, disability, age,
23 or social or economic status.

24 Sec. 422.252. RIGHTS RELATING TO INVESTIGATION AND REMEDY.

25 (a) The commission shall protect the right of each person residing
26 in this state to:

27 (1) have an independent and proper investigation of

1 any complaint filed under this chapter; and

2 (2) receive the proper remedy regarding the complaint.

3 (b) The commission and each employee of the commission or a
4 district complaint office must respect the rights of persons who
5 file complaints and of persons who are being investigated.

6 Sec. 422.253. RULES REGARDING EQUALITY. (a) The
7 commission shall adopt rules designed to establish equality under
8 the law for parties to a complaint under this chapter.

9 (b) Each director shall ask the commission to adopt rules
10 that the director considers necessary to establish equality under
11 the law for parties to a complaint under this chapter.

12 Sec. 422.254. GENERAL SCOPE OF AUTHORITY. (a) The
13 commission and directors shall investigate matters considered
14 relevant to the commission and district complaint offices,
15 including investigations of patterns of misconduct that arise
16 during complaint investigations.

17 (b) The commission and directors shall address relevant
18 policies, patterns, and practices of governmental entities.

19 (c) After investigating or addressing matters under this
20 section, the commission or a director may:

21 (1) make recommendations;

22 (2) require and enforce specific actions; and

23 (3) take legal action when necessary.

24 Sec. 422.255. INVESTIGATION OF GOVERNMENTAL EMPLOYEES,
25 INCLUDING FIREFIGHTERS AND POLICE OFFICERS. (a) This chapter
26 grants the same privileges and protections of any law in this state
27 relating to investigations and interrogations of government

1 employees, including Chapter 143, Local Government Code, and
2 affirms the same privileges and protections to members of the
3 public at an on-the-scene investigation, including an
4 investigation of an officer involved in shooting, display of
5 weapon, or use-of-force incidents.

6 (b) The district complaint office in the applicable area
7 shall be notified by the appropriate governmental entity of all
8 officers involved in a shooting, display of weapon, or use-of-force
9 incident. The district complaint office must be notified of the
10 need for an immediate investigation in the same manner and at the
11 same time as the district attorney.

12 (c) The subject of an investigation need not be informed of
13 the investigation during the following special circumstances:

14 (1) a criminal investigation initiated as a result of
15 the complaint; or

16 (2) an investigation in which the disclosure of
17 information concerning the name of the complainant, investigator,
18 investigative team, interrogator, or matters under investigation
19 would hinder the investigation.

20 (d) A commissioner, a director, or an investigator of a
21 district complaint office may conduct an interrogation of a
22 firefighter, police officer, or other government employee based on
23 a complaint if the complainant does not verify the complaint in
24 writing before a public officer who is authorized by law to take
25 statements under oath.

26 (e) This section does not apply to an on-the-scene
27 investigation that occurs immediately after an incident being

1 investigated if the limitations of this section would unreasonably
2 hinder the essential purpose of the investigation or interrogation.
3 If the limitation would hinder the investigation or interrogation,
4 the firefighter, police officer, or other government employee under
5 investigation must be provided, as soon as practicable, but not
6 later than the 30th day after the date a complaint is received by
7 the commission or a district complaint office, a written statement
8 of the nature of the investigation, the name of each complaining
9 party, and a copy of the complaint, affidavit, or statement.

10 Sec. 422.256. RELATION TO OTHER CIVILIAN COMPLAINT BOARDS;
11 FUNDING. The commission shall investigate and propose measures to
12 replace existing civilian complaint boards, offices, or
13 departments in other governmental entities in this state.

14 Sec. 422.257. SUBPOENAS. (a) A commissioner or a director
15 may issue a subpoena to compel the attendance of a witness or the
16 production of documents. The subpoena must relate to a matter under
17 investigation by the commission or a district complaint office.

18 (b) If a person refuses to obey a subpoena issued under this
19 section, the commission or a director may apply to a court for an
20 order requiring that the person obey the subpoena.

21 [Sections 422.258-422.300 reserved for expansion]

22 SUBCHAPTER G. DISTRICT COMPLAINT OFFICES

23 Sec. 422.301. ESTABLISHMENT OF CIVILIAN OVERSIGHT DISTRICT
24 COMPLAINT OFFICES; MEETINGS. (a) To exercise its powers under this
25 chapter, the commission shall establish civilian oversight
26 district complaint offices throughout the state in counties or
27 municipalities to investigate complaints filed under this chapter.

1 (b) When establishing a district complaint office under
2 this section, the commission shall determine the geographical area
3 over which the office has jurisdiction.

4 Sec. 422.302. JURISDICTION FOR CERTAIN COMPLAINTS. A
5 district complaint office has jurisdiction to investigate a
6 complaint in its geographical area that alleges misconduct
7 described by Section 422.251.

8 Sec. 422.303. DIRECTOR RESPONSIBILITIES. A director shall
9 increase and maintain the effectiveness, efficiency, reliability,
10 and accuracy of investigations, reports, court actions, discipline
11 judgments, and other recommendations related to the director's
12 district complaint office.

13 Sec. 422.304. PROCEDURES. (a) A district complaint
14 office, including the director of that office, shall follow all
15 rules and procedures established by the commission under this
16 chapter, including rules that describe:

17 (1) how investigations are to be conducted;
18 (2) how recommendations are made;
19 (3) what actions must be taken; and
20 (4) the manner in which the public or a government
21 employee is to be informed of the status of the person's complaint.

22 (b) A director may establish other procedures for the
23 director's district complaint office concerning the conduct of
24 office meetings, investigations, and other general affairs.

25 (c) A director may establish additional procedures that
26 describe:

27 (1) how investigations are to be conducted;

1 (2) how recommendations are made; and

2 (3) what actions must be taken.

3 Sec. 422.305. DISTRICT COMPLAINT OFFICE MEETINGS. A
4 district complaint office may hold meetings at any place in the area
5 over which it has jurisdiction. The office may hold meetings as
6 necessary to carry out its duties.

7 Sec. 422.306. JURISDICTION FOR OTHER MISCONDUCT. If an
8 investigation under this chapter uncovers misconduct other than
9 that described by Section 422.251, the office may refer that part of
10 the investigation to the appropriate governmental entity for
11 investigation and action related to the other misconduct.

12 Sec. 422.307. FORWARDING OF COMPLAINTS TO DISTRICT
13 COMPLAINT OFFICES. (a) The commission shall forward each
14 complaint that it receives to the district complaint office with
15 jurisdiction over the area where the complaint originated.

16 (b) If a district complaint office receives a complaint that
17 is not in the area covered by that office, the office shall forward
18 the complaint to the district complaint office with jurisdiction
19 over the area where the complaint originated.

20 (c) If a district complaint office with jurisdiction over
21 the area where the complaint originated does not exist, the
22 commission or district complaint office that received the complaint
23 shall dismiss the complaint and inform the person who made the
24 complaint of this fact.

25 Sec. 422.308. DISMISSAL OF COMPLAINT; GROUNDS FOR CLOSING
26 INVESTIGATION. A district complaint office may dismiss a complaint
27 and close an investigation without reaching a final determination

1 when:

2 (1) the district complaint office is unable to obtain
3 a primary statement from the person who filed the complaint or the
4 alleged victim; or

5 (2) the person who filed the complaint or the alleged
6 victim asks the office to withdraw the complaint.

7 Sec. 422.309. ANNUAL REPORTS. Each district complaint
8 office shall annually report to the commission:

9 (1) a description of the activities and a summary of
10 the actions of the district complaint office; and

11 (2) financial information regarding the district
12 complaint office's wages and operating expenses.

13 Sec. 422.310. ADDITIONAL OVERSIGHT OF DISTRICT COMPLAINT
14 OFFICES; STANDARDS. (a) The commission and directors shall ensure
15 that investigations by district complaint offices are performed in
16 accordance with the highest standards practicable.

17 (b) To meet its duties under Subsection (a), the commission
18 shall establish and enforce minimum standards and qualifications
19 for district complaint office directors and other district
20 personnel determined to be necessary and appropriate.

21 (c) The director shall enforce standards and qualifications
22 regarding the investigation of complaints established under this
23 chapter in the geographical area assigned to that director's
24 district complaint office.

25 Sec. 422.311. COMMISSIONER AUTHORITY LIMITED. Except as
26 delegated or authorized by this chapter, a commissioner has no
27 authority to individually control or direct the actions of district

1 complaint offices.

2 [Sections 422.312-422.350 reserved for expansion]

3 SUBCHAPTER H. INVESTIGATIVE TEAMS AND INVESTIGATIONS

4 Sec. 422.351. ASSIGNMENT OF INVESTIGATORS; ELIGIBILITY.

5 (a) Not later than one day after a district complaint office
6 receives a complaint over which it has jurisdiction, the director
7 shall assign an investigative manager to the complaint.

8 (b) A person may not be assigned as an investigator or
9 member of an investigative team under this section if the person:

10 (1) filed the complaint to be investigated; or

11 (2) has any personal involvement regarding the alleged
12 misconduct that is the subject of the complaint.

13 Sec. 422.352. INVESTIGATIVE TEAM COMPOSITION; ASSIGNMENT.

14 (a) A director shall establish procedures that provide for the
15 establishment of investigative teams.

16 (b) A director may assign an investigative team to any
17 complaint. A director shall assign an investigative team to any
18 complaint involving:

19 (1) abuse of authority;

20 (2) excessive use of force;

21 (3) serious bodily injury or death;

22 (4) obstruction of justice; or

23 (5) misrepresentation of the facts relating to
24 disputed events and circumstances.

25 (c) Each investigative team must consist of five district
26 complaint office employees as follows:

27 (1) one manager;

- (2) one attorney;
- (3) one secretary; and
- (4) two investigators.

(d) The secretary shall record the case.

(e) The manager shall:

(1) examine carefully each investigative report to ensure that all possible efforts have been made to resolve the complaint;

(2) make objective determinations on the merits of each case; and

(3) recommend disciplinary actions that are fair and appropriate, if the investigative findings show that misconduct occurred.

(f) The attorney shall:

(1) review the investigative reports;

(2) advise the team on legal matters; and

(3) initiate court action, if necessary, when approved by the director.

(g) One investigator will be assigned as lead investigator responsible for complying with Section 422.353.

Sec. 422.353. INVESTIGATIVE TEAM RESPONSIBILITIES. (a) The investigator or investigative team shall provide to the person filing the complaint a copy of the district complaint office's policies and procedures relating to complaint investigation and resolution.

(b) The investigative team shall fully investigate the complaint and recommend actions to the director regarding the

1 complaint.

2 (c) The investigative team, by majority vote, may ask the
3 director to compel the attendance of witnesses and require the
4 production of records and other materials necessary to investigate
5 the complaint.

6 Sec. 422.354. INVESTIGATIVE TEAM FINDINGS. After an
7 investigation, an investigative team shall notify the director of
8 the findings and actions recommended by the investigative team and
9 the basis for the findings and recommendations.

10 Sec. 422.355. INVESTIGATION SCHEDULE; DUTIES. (a) A
11 director shall establish a schedule for investigators who will be
12 assigned to on-the-scene investigations, including an
13 investigation of an officer involved in shooting, display of
14 weapon, or use-of-force incidents.

15 (b) The assigned investigator shall dispatch to the scene
16 and notify members of the public and other witnesses at the scene of
17 their rights under this chapter.

18 Sec. 422.356. RIGHTS OF PERSONS BEING INVESTIGATED. (a) A
19 person who is the subject of an investigation is entitled to be
20 informed, on request, of the identities of each investigator
21 participating in the investigation.

22 (b) Not later than the 30th day after the date a complaint is
23 received by the district complaint office responsible for
24 investigating the complaint, the investigator or investigative
25 team shall:

26 (1) provide to the person who is the subject of the
27 complaint a copy of the district complaint office's policies and

1 procedures relating to complaint investigation and resolution; and
2 (2) except as provided by Section 422.255(c), inform
3 the person in writing of the nature of the complaint.

4 Sec. 422.357. COOPERATION OF OTHER GOVERNMENTAL ENTITIES
5 AND RELATED PERSONS. (a) Each person who is a governmental entity
6 and any business, nonprofit organization, or other group that acts
7 on behalf of a governmental entity under a contract with the
8 governmental entity shall:

9 (1) provide any assistance that a director, an
10 investigative team, or an investigator of a district complaint
11 office may reasonably request;

12 (2) cooperate fully with investigations under this
13 chapter;

14 (3) provide investigators upon request records and
15 other materials necessary for the investigation of complaints under
16 this chapter; and

17 (4) ensure that employees appear and respond to
18 district complaint office investigators regarding complaints filed
19 under this chapter.

20 (b) If the director submits to the governmental entity a
21 finding or recommendation regarding that entity's policies and
22 practices or a determination regarding an employee of that entity,
23 the governmental entity shall report to the district complaint
24 office's complaint officer any action taken in relation to that
25 finding, recommendation, or determination.

26 (c) This section does not limit the governmental entity's
27 authority to discipline its own employees.

1 (d) This section may not be construed to prevent or hinder
2 the investigation or prosecution of a person for a violation of law
3 by a court, a grand jury, an attorney representing the state, or
4 other authorized officer or entity.

5 Sec. 422.358. FINAL WRITTEN REPORT. The lead investigator
6 assigned to a complaint shall make a final written report that
7 evaluates the available evidence and makes recommendations to the
8 investigative team as to how the complaint should be resolved. The
9 investigator shall provide a copy of the report to the team members
10 and the director.

11 Sec. 422.359. COMPLAINT DETERMINATIONS AFTER
12 INVESTIGATION. (a) After an investigation under this chapter, a
13 director shall make a determination on each complaint that has not
14 been dismissed under this chapter. Except as provided by
15 Subsection (b), the determination for each allegation in the
16 complaint must be:

- 17 (1) exonerated;
- 18 (2) substantiated;
- 19 (3) unfounded; or
- 20 (4) unsubstantiated.

21 (b) The director must determine that "the person complained
22 about remains unidentified" if the person's identity has not been
23 discovered after 18 months of investigation.

24 (c) In this section, a "substantiated" determination means
25 that a preponderance of the evidence shows that the person who is
26 the subject of the complaint committed the alleged misconduct.
27 After making this determination, the director may:

1 (1) recommend appropriate disciplinary action to the
2 employer of the person; or

3 (2) begin legal action against the person.

4 (d) In this section, an "exonerated" determination means
5 that a preponderance of the evidence shows that the person who is
6 the subject of the complaint engaged in the actions alleged in the
7 complaint but that the actions were not misconduct because the
8 person's actions were lawful and proper.

9 (e) In this section, an "unfounded" determination means
10 that a preponderance of the evidence shows that the person who is
11 the subject of the complaint did not commit the alleged misconduct.

12 (f) In this section, an "unsubstantiated" determination
13 means that the available evidence was insufficient to reach a
14 determination on a preponderance of the evidence of substantiated,
15 exonerated, or unfounded.

16 (g) The director shall notify the person who filed the
17 complaint and each person who is the subject of the complaint of
18 the case determination and any further action, including legal
19 action, to be taken. The director shall also notify the employer of
20 a person who is the subject of the complaint.

21 Sec. 422.360. COMPLAINT OFFICER; ENFORCEMENT. (a) The
22 director shall hire at least one complaint officer.

23 (b) After a determination is made under this subchapter, the
24 director shall designate a complaint officer to ensure that the
25 appropriate discipline and recommendations of the director,
26 investigative teams, or investigators are administered and
27 enforced at the location that employs the person who is the subject

1 of the complaint.

2 [Sections 422.361-422.400 reserved for expansion]

3 SUBCHAPTER I. DISCIPLINARY PROCEEDINGS

4 Sec. 422.401. APPLICABILITY OF SUBCHAPTER. This
5 subchapter applies only to government employees to which this
6 chapter applies, as provided by Section 422.003.

7 Sec. 422.402. COMMISSION ACTION. The commission may
8 initiate disciplinary action against a government employee
9 according to rules established by the commission under this
10 chapter.

11 Sec. 422.403. RULES REGARDING PENALTIES FOR MISCONDUCT.

12 (a) The commission shall adopt rules regarding penalties for
13 misconduct described by Section 422.251, including rules
14 prescribing cause for removal or suspension of a government
15 employee.

16 (b) A commission rule prescribing cause for removal or
17 suspension of a government employee is not valid unless it involves
18 one or more of the following grounds:

19 (1) conviction of a felony or other crime involving
20 moral turpitude;

21 (2) violations of a municipal charter provision;

22 (3) acts of incompetence;

23 (4) neglect of duty;

24 (5) discourtesy to the public or to a fellow employee
25 while the employee is performing governmental duties;

26 (6) acts showing lack of good moral character;

27 (7) drinking alcohol while on duty or intoxication

1 while off duty;

2 (8) conduct prejudicial to good order;

3 (9) refusal or neglect to pay just debts;

4 (10) absence without leave;

5 (11) shirking duty or cowardice during a fire, if
6 applicable; or

7 (12) violation of a rule or order.

8 Sec. 422.404. ADMINISTRATIVE SANCTIONS. The commission may
9 impose penalties for misconduct proved under this chapter,
10 including:

11 (1) probation;

12 (2) demotion;

13 (3) dismissal;

14 (4) referral of the allegations of ethical misconduct
15 to the appropriate authority;

16 (5) loss of pension or other retirement benefits;

17 (6) suspension from employment;

18 (7) referral of the allegations, if appropriate, to
19 civil courts; and

20 (8) referral of the allegations, if appropriate, to a
21 grand jury for possible criminal prosecution.

22 Sec. 422.405. CERTAIN HEARINGS EXAMINER STATUTES NOT
23 APPLICABLE. Sections 143.057 and 143.1016, Local Government Code,
24 do not apply to a disciplinary action in a county or municipality
25 if:

26 (1) a district complaint office is established in that
27 county or municipality; and

1 (2) the district complaint office determines that the
2 application of Section 143.057 or 143.1016, Local Government Code,
3 would impair the efficient operation of the commission or the
4 district complaint office.

5 Sec. 422.406. BURDEN OF PROOF. An allegation of misconduct
6 in a disciplinary proceeding under this subchapter must be proved
7 by a preponderance of the evidence before a sanction may be imposed
8 under Section 422.404.

9 ARTICLE 2. CONFORMING AMENDMENTS

10 SECTION 2.01. Articles 2.01 and 2.02, Code of Criminal
11 Procedure, are amended to read as follows:

12 Art. 2.01. DUTIES OF DISTRICT ATTORNEYS. Each district
13 attorney shall represent the State in all criminal cases in the
14 district courts of his district and in appeals therefrom, except in
15 cases where he has been, before his election, employed adversely,
16 and except in a criminal case when the State is represented by an
17 attorney representing the Civilian Oversight Commission, including
18 a district complaint office under the Civilian Oversight
19 Commission. When any criminal proceeding is had before an
20 examining court in his district or before a judge upon habeas
21 corpus, and he is notified of the same, and is at the time within his
22 district, he shall represent the State therein, unless prevented by
23 other official duties, or unless the State is represented by an
24 attorney representing the Civilian Oversight Commission, including
25 a district complaint office under the Civilian Oversight
26 Commission. It shall be the primary duty of all prosecuting
27 attorneys, including any special prosecutors, not to convict, but

1 to see that justice is done. They shall not suppress facts or
2 secrete witnesses capable of establishing the innocence of the
3 accused.

4 Art. 2.02. DUTIES OF COUNTY ATTORNEYS. The county attorney
5 shall attend the terms of court in his county below the grade of
6 district court, and shall represent the State in all criminal cases
7 under examination or prosecution in said county; and in the absence
8 of the district attorney he shall represent the State alone and,
9 when requested, shall aid the district attorney in the prosecution
10 of any case in behalf of the State in the district court, except in a
11 case when the State is represented by an attorney representing the
12 Civilian Oversight Commission, including a district complaint
13 office under the Civilian Oversight Commission. The county
14 attorney [~~He~~] shall represent the State in cases he has prosecuted
15 which are appealed.

16 SECTION 2.02. Article 2.06, Code of Criminal Procedure, is
17 amended to read as follows:

18 Art. 2.06. MAY ADMINISTER OATHS. The following [~~For the~~
19 ~~purpose mentioned in the two preceding Articles, district and~~
20 ~~county]~~ attorneys are authorized to administer oaths:

21 (1) district and county attorneys, for a purpose
22 mentioned in the two preceding articles; and

23 (2) attorneys representing the Civilian Oversight
24 Commission, including a district complaint office under the
25 Civilian Oversight Commission.

26 SECTION 2.03. Article 20.02, Code of Criminal Procedure, is
27 amended by adding Subsection (h) to read as follows:

1 (h) The Civilian Oversight Commission or a district
2 complaint office under the Civilian Oversight Commission that is
3 responsible for investigating the actions or misconduct of a
4 government employee in relation to the employee's employment may
5 petition the court for an order permitting disclosure of all
6 evidence obtained during a grand jury proceeding to assist the
7 Civilian Oversight Commission and district complaint office in the
8 performance of their duties. A person who receives information
9 under this subsection and discloses the information for purposes
10 other than those permitted by this subsection is subject to
11 punishment for contempt in the same manner as persons who violate
12 Subsection (b).

13 SECTION 2.04. Article 20.03, Code of Criminal Procedure, is
14 amended to read as follows:

15 Art. 20.03. ATTORNEY REPRESENTING STATE ENTITLED TO APPEAR.
16 "The attorney representing the State" means the Attorney General,
17 district attorney, criminal district attorney, ~~[or]~~ county
18 attorney, or an attorney representing the Civilian Oversight
19 Commission, including a district complaint office under the
20 Civilian Oversight Commission. The attorney representing the
21 State~~[r]~~ is entitled to go before the grand jury and inform them of
22 offenses liable to indictment at any time except when they are
23 discussing the propriety of finding an indictment or voting upon
24 the same.

25 SECTION 2.05. Section 52.092(c), Election Code, is amended
26 to read as follows:

27 (c) Statewide offices of the state government shall be

1 listed in the following order:

- 2 (1) governor;
- 3 (2) lieutenant governor;
- 4 (3) attorney general;
- 5 (4) comptroller of public accounts;
- 6 (5) commissioner of the General Land Office;
- 7 (6) commissioner of agriculture;
- 8 (7) railroad commissioner;
- 9 (8) chief justice, supreme court;
- 10 (9) justice, supreme court;
- 11 (10) presiding judge, court of criminal appeals;
- 12 (11) judge, court of criminal appeals;
- 13 (12) commissioner of the Civilian Oversight
- 14 Commission.

15 SECTION 2.06. Sections 143.1214(a) and (b), Local
16 Government Code, are amended to read as follows:

17 (a) The human resources director for the department
18 promptly shall order that the records of a disciplinary action that
19 was taken against a fire fighter or police officer be expunged from
20 each file maintained on the fire fighter or police officer by the
21 department if the disciplinary action was entirely overturned on
22 appeal by the commission, an independent third-party hearing
23 examiner, the Civilian Oversight Commission or a district complaint
24 office under the Civilian Oversight Commission, or a court of
25 competent jurisdiction. Documents that must be expunged under this
26 subsection include all documents that indicate disciplinary action
27 was recommended or taken against the fire fighter or police

1 officer, such as the recommendations of a disciplinary committee or
2 a letter of suspension. This subsection does not apply if the fire
3 fighter or police officer is charged with using excessive force
4 that results in a death or injury and the charge is being
5 investigated by a law enforcement or criminal justice agency other
6 than the department. This subsection does not require that records
7 of the internal affairs division be expunged.

8 (b) The department shall maintain an investigatory file
9 that relates to a disciplinary action against a fire fighter or
10 police officer that was overturned on appeal, or any document in the
11 possession of the department that relates to a charge of misconduct
12 against a fire fighter or police officer, regardless of whether the
13 charge is sustained, only in a file created by the department for
14 the department's use. The department may only release information
15 in those investigatory files or documents relating to a charge of
16 misconduct:

17 (1) to another law enforcement agency or fire
18 department;

19 (2) to the office of a district or United States
20 attorney;

21 (3) to the Civilian Oversight Commission or a district
22 complaint office under the Civilian Oversight Commission; or

23 (4) [~~3~~] in accordance with Subsection (c).

24 SECTION 2.07. Section 143.123(f), Local Government Code, is
25 amended to read as follows:

26 (f) Before an investigator may interrogate a fire fighter or
27 police officer who is the subject of an investigation, the

1 investigator must inform the fire fighter or police officer in
2 writing of the nature of the investigation and the name of each
3 person who complained about the fire fighter or police officer
4 concerning the matters under investigation, unless a criminal
5 investigation has been initiated as a result of the complaint or
6 unless the disclosure of information concerning matters under
7 investigation or concerning the name of the complainant, the
8 investigator, a member of an investigative team, or the
9 interrogator would hinder the investigation. An investigator may
10 not conduct an interrogation of a fire fighter or police officer
11 based on a complaint by a complainant who is not a peace officer
12 unless the complainant verifies the complaint in writing before a
13 public officer who is authorized by law to take statements under
14 oath or unless the complaint is filed with the Civilian Oversight
15 Commission or a district complaint office under the Civilian
16 Oversight Commission. In an investigation authorized under this
17 subsection, an investigator may interrogate a fire fighter or
18 police officer about events or conduct reported by a witness who is
19 not a complainant without disclosing the name of the witness. Not
20 later than the 48th hour before the hour on which an investigator
21 begins to interrogate a fire fighter or police officer regarding an
22 allegation based on a complaint, affidavit, or statement, the
23 investigator shall give the fire fighter or police officer a copy of
24 the affidavit, complaint, or statement. An interrogation may be
25 based on a complaint from an anonymous complainant if the
26 departmental employee receiving the anonymous complaint certifies
27 in writing, under oath, that the complaint was anonymous. This

1 subsection does not apply to an on-the-scene investigation that
2 occurs immediately after an incident being investigated if the
3 limitations of this subsection would unreasonably hinder the
4 essential purpose of the investigation or interrogation. If the
5 limitation would hinder the investigation or interrogation, the
6 fire fighter or police officer under investigation must be
7 furnished, as soon as practicable or not later than the 30th day
8 after the date a complaint is received by the Civilian Oversight
9 Commission or a district complaint office under the Civilian
10 Oversight Commission, a written statement of the nature of the
11 investigation, the name of each complaining party, and the
12 complaint, affidavit, or statement.

13 SECTION 2.08. Section 143.312, Local Government Code, is
14 amended by amending Subsection (g) and adding Subsection (m) to
15 read as follows:

16 (g) Not less than 48 hours before an investigator begins the
17 initial interrogation of a fire fighter or police officer who is the
18 subject of an investigation, the investigator must inform the fire
19 fighter or police officer in writing of the allegations in the
20 complaint. An investigator may not interrogate a fire fighter or
21 police officer based on a complaint by a complainant who is not a
22 fire fighter or police officer unless the complainant verifies the
23 complaint in writing before a public officer who is authorized by
24 law to take statements under oath or unless the complaint is filed
25 with the Civilian Oversight Commission or a district complaint
26 office under the Civilian Oversight Commission. In an
27 investigation under this subsection, an investigator may

1 interrogate a fire fighter or police officer about events or
2 conduct reported by a witness who is not a complainant without
3 disclosing the name of the witness. An interrogation may be based
4 on a complaint from an anonymous complainant if the departmental
5 employee receiving the anonymous complaint certifies in writing,
6 under oath, that the complaint was anonymous. This subsection does
7 not apply to an on-the-scene investigation that occurs immediately
8 after an incident being investigated, except that the fire fighter
9 or police officer under investigation must be furnished, as soon as
10 practicable or not later than the 30th day after the date a
11 complaint is received by the Civilian Oversight Commission or a
12 district complaint office under the Civilian Oversight Commission,
13 a written statement of the allegations in the complaint.

14 (m) An investigator is not required to inform the fire
15 fighter or police officer of the name of the person who complained
16 about the fire fighter or police officer if a criminal
17 investigation has been initiated as a result of the complaint or the
18 disclosure of information concerning matters under investigation
19 or concerning the name of the complainant, the investigator, a
20 member of an investigative team, or the interrogator would hinder
21 the investigation.

22 ARTICLE 3. TRANSITION; EFFECTIVE DATE

23 SECTION 3.01. The initial election for members of the
24 Civilian Oversight Commission shall be held as provided by Section
25 422.052, Government Code, as added by this Act, on November 7, 2006.
26 The initial commissioners elected under that section shall draw
27 lots to stagger their terms at two, four, and six years.

1 SECTION 3.02. Not later than February 1, 2007, the Civilian
2 Oversight Commission shall establish at least five initial district
3 complaint offices under Section 422.301, Government Code, as added
4 by this Act. The initial district complaint offices must be in a
5 county or municipality with a population of at least one million.

6 SECTION 3.03. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2005.