



# TCOLE PRESENTS

TCOLE SUNSET OVERVIEW:  
PERSONNEL FILES AND MISCONDUCT  
ALLEGATIONS

# INTRODUCTION

Deputy Chief – Cullen Grissom

Assistant General Counsel – Jennie Hilbig

# LEGAL DISCLAIMER

The information provided here does not constitute legal advice; instead, all information, content, and materials available are for informational purposes only. This information may not constitute the most up-to-date information. Please contact your own legal services providers for legal advice regarding this information.

# PERSONNEL FILES

MODEL POLICY

Tex. Occ. Code § 1701.4535



# PERSONNEL FILES

In the hands of the agency and for the purpose of determining confidentiality, the requested officer's records are distinguished as either personnel or department files. Under the model policies and existing civil service law, the requested records are characterized and correspondingly protected according to the following:

# PF § 1.1

## PERSONNEL FILE = (a) – FILE

- Importantly, the *personnel file* includes **only** the following:
  - any letter, memorandum, or document relating to a commendation, congratulation, or honor bestowed on the license holder by a member of the public or by the employing agency for an action, duty, or activity that relates to the license holder's official duties;

# PERSONNEL FILE = (a) – FILE CONT.

- any misconduct by the license holder if the letter, memorandum, or document is from the employing agency and resulted in disciplinary action; and
- the periodic evaluation of the license holder by a supervisor.

Such information is equivalent to the (a)-file for civil service agencies and is subject to public disclosure.



# PF § 2.2

## PERSONNEL FILE = (a) – FILE CONT.

- If a negative letter, memorandum, document, or other notation of negative impact is included in a license holder's personnel file:
  - The agency head or their designee shall notify the affected license holder within 30 days.
  - The license holder may file a written response to the negative document within 30 days of receiving that notice.



## PF § 2.3

### PERSONNEL FILE = (a) – FILE CONT.

- A license holder is entitled, on request, to a copy of any letter, memorandum, or document placed in the license holder's personnel file.

# PF § 3

## DEPARTMENT FILE = (g) – FILE

- In contrast, the *department file* protects the privacy interest and reputation of “innocent officers...from unsubstantiated innuendos and accusations.” For example, investigative materials related to misconduct that does not result in disciplinary action belong in the *department file*, not the *personnel file*.
- An agency may not release any information in the department file without the written consent or release of the law enforcement officer as part of a pre-employment background investigation with the exception to TCOLE as part of an ongoing investigation OR misconduct investigation reports.

# PF § 2

## PERSONNEL FILES

Upon separation from an agency, a copy of the personnel file will be submitted to the confidential statewide employment database maintained by TCOLE not later than the 30th day after the date the license holder separates from the agency or on request by TCOLE as part of an ongoing investigation relating to the license holder.

## Personnel File & Department File

Designated for the Personnel File (a-file)

- Commendations, congratulations, & honors
- Periodic evaluations by supervisor
- Misconduct resulting in formal discipline

Designated for the Department File (g-file)

- Misconduct not resulting in formal discipline
- Everything not required to be included in the Personnel File

## Who gets what?

Agency provides upon request:

1. Personnel File and Department File to TCOLE as part of an ongoing investigation.
2. Personnel File and Department File to prospective appointing agencies as part of a background investigation.

Agency required to provide:

1. Personnel File to TCOLE within 30 days after separation.
2. Misconduct Investigation Reports to TCOLE in a timely manner but no later than 30 days after separation.

# Confidential Database – Staged Approach



Groundwork



Establish Roles



File Uploader &  
Content  
Organization

Continue using TSS through these stages

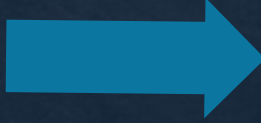


# Confidential Database

- ◆ Record Transfer & System Build:
  - ◆ TCOLE will build the system for records, but you will still maintain your own
  - ◆ Personnel File (a-file) only
- ◆ Confidentiality:
  - ◆ The database remains confidential
  - ◆ Not subject to open records requests
- ◆ Extended Records Retention

# Timeline


Policy  
Implementation  
June 1, 2025



Digital Solution  
Early 2026



# What do I do with my files?




Keep  
doing what  
you are  
doing now.

- ◆ TCOLE will not require your files until we are ready to receive them
- ◆ Personnel Files (a-file) vs Department Files (g-file):
  - ◆ Learn the difference
  - ◆ Begin differentiating those files now

# How Do I Request Background Information?

- ◆ Utilize TSS or in-person visits
- ◆ Let us know if you are having problems



Keep  
doing what  
you are  
doing now.



# PERSONNEL FILES MODEL POLICY ADOPTION DATE

All law enforcement agencies shall adopt the Personnel Files model policy, or a substantively similar policy, no later than June 1, 2025.

# MISCONDUCT ALLEGATIONS

MODEL POLICY

Tex. Occ. Code § 1701.4522



# WHAT IS MISCONDUCT?

- Violations of federal or state laws or local ordinances and alleged conduct including:
  - use of excessive force
  - untruthfulness
  - unlawful search
  - unlawful arrest
  - civil rights violations
  - racially motivated police actions
  - discrimination
  - sexual harassment
  - any conduct that seriously degrades the integrity or good order of the organization

# WHAT IS MISCONDUCT?

- Allegations of untruthfulness shall include false, untrue, or misleading statements, either by overt means or by omission.
- Misconduct does not include minor rule violations of a less serious nature.

# MISCONDUCT INVESTIGATIONS

- An Agency SHALL investigate allegations of misconduct that may result in suspension, demotion, or termination *at the time* the agency becomes aware of the alleged misconduct.
- An allegation of misconduct is a written complaint of misconduct and signed by the person making the complaint.



# ADMINISTRATIVE INVESTIGATIONS

The agency must submit a Misconduct Investigation Report for completed administrative investigations to the Commission, in a timely manner but no later than 30 days after the licensee's separation from the agency.

# CRIMINAL INVESTIGATIONS

The agency must submit a Criminal Charges Notification (E-1) to the Commission within 30 days after an investigation is completed for criminal misconduct if criminal charges are filed against the licensee.

# MCA § 2

## INVESTIGATION PROCEDURES

- The investigation generally must be completed within 180 days.
- Include documentation of the completed investigation in the license holder's appropriate personnel or department file.
- If a license holder separates from your agency during the pendency of an investigation, the agency **SHALL** complete the investigation and **submit a report to TCOLE**.

# MCA § 2.7

## APPEALS

- Notify TCOLE if the matter is under appeal.
- The agency shall notify TCOLE of the disposition of an appeal within 30 days of receipt of the decision.

**TEXAS COMMISSION ON LAW ENFORCEMENT**

6330 E. Highway 290, STE. 200  
Austin, Texas 78723-1035  
Phone: (512) 936-7700  
<https://www.tcole.texas.gov>

**MISCONDUCT INVESTIGATION REPORT (MIR)**

Occupations Code § 1701.4522

**LICENSEE INFORMATION**

1. TCOLE PID	2. LICENSEE LAST NAME	3. LICENSEE FIRST NAME	4. M.I.	5. SUFFIX (Jr., etc.)
6. LICENSE TYPE(S)				
<input type="checkbox"/> PEACE OFFICER <input type="checkbox"/> COUNTY JAILER <input type="checkbox"/> TELECOMMUNICATOR				

**AGENCY INFORMATION**

7. TCOLE AGENCY NO.	8. AGENCY NAME	9. AGENCY EMAIL		
10. AGENCY MAILING ADDRESS	11. CITY	12. STATE	13. ZIP CODE	14. AGENCY PHONE NUMBER

**ADMINISTRATIVE MISCONDUCT INVESTIGATION SUMMARY REPORT**

15. AGENCY CASE NUMBER(S) FOR INVESTIGATION:	
16. TCOLE CASE NUMBER (IF COMPLAINT REFERRED BY TCOLE):	
17. DATE ALLEGED MISCONDUCT OCCURRED:	
18. DATE ALLEGED MISCONDUCT WAS DISCOVERED:	
19. DATE MISCONDUCT INVESTIGATION INITIATED:	
20. MISCONDUCT ALLEGATION NO. 1	
21. INVESTIGATIVE FINDINGS AND SUMMARY ON MISCONDUCT ALLEGATION NO. 1	
<input type="checkbox"/> NOT SUSTAINED <input type="checkbox"/> SUSTAINED	
22. MISCONDUCT ALLEGATION NO. 2	
23. INVESTIGATIVE FINDINGS AND SUMMARY ON MISCONDUCT ALLEGATION NO. 2	
<input type="checkbox"/> NOT SUSTAINED <input type="checkbox"/> SUSTAINED	
24. DISCIPLINARY ACTION TAKEN (IF SUSTAINED):	
25. DATE MISCONDUCT INVESTIGATION COMPLETED:	
26. MISCONDUCT INVESTIGATION RESULTS UNDER APPEAL AS OF SUBMISSION TO TCOLE: <input type="checkbox"/> YES <input type="checkbox"/> NO	
27. I, the chief administrator or designee of the above-named agency, certify that the information contained in this form is true and correct.	
CHIEF ADMIN OR DESIGNEE NAME (TYPE OR PRINT)	CHIEF ADMIN OR DESIGNEE SIGNATURE      DATE

The MIR is for reporting investigations of alleged administrative misconduct. If reporting alleged criminal misconduct for which criminal charges are filed, use the Criminal Charges Notification (E-1) form. Generally, administrative misconduct investigations must be completed within 180 days and may not be terminated by the resignation, retirement, termination, death, or separation from appointment of a licensee. After the above sections are completed, submit this form to TCOLE at [misconductreport@tcole.texas.gov](mailto:misconductreport@tcole.texas.gov). Attach additional pages or information as needed. Include documentation of the completed investigation in the licensee's appropriate personnel or department file. If currently under appeal or if after a subsequent successful appeal, submit an updated MIR when the appeal is concluded along with a letter of explanation.



# Administrative Misconduct

180 Days to Complete Investigation

Resulted in Disciplinary Action

Did Not Result in Disciplinary Action

Documentation of completed investigation to the Personnel File

Notify licensee within 30 days of including negative information in the Personnel File

Licensee may file a response to the negative information within 30 days of receipt for inclusion in the Personnel File

MIR to TCOLE in a timely manner but no later than 30 days after separation

If the MIR has already been submitted to TCOLE at the time of appeal, notify TCOLE of the appeal and the disposition within 30 days

Documentation of completed investigation to Department File

**Criminal Misconduct**

```
graph TD; A[Criminal Misconduct] --> B[Investigation]; B --> C[Charges Filed]; B --> D[No Charges Filed]; C --> E["E-1 to TCOLE within 30 days of completed investigation"]
```

**Investigation**

**Charges Filed**

**No Charges Filed**

E-1 to TCOLE within 30 days  
of completed investigation



# MISCONDUCT ALLEGATIONS MODEL POLICY ADOPTION DATE

*All law enforcement agencies shall adopt the Misconduct Allegations model policy, or a substantively similar policy, no later than June 1, 2025.*

# SUBSCRIBE TO EMAIL UPDATES

