General Order

Houston Police Department

ISSUE DATE:	NO.
May 2, 2019	300-05

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 300-05, dated July 1, 2016

SUBJECT: WORKERS' COMPENSATION

POLICY

The City of Houston (COH) has a program by which eligible employees who suffer a compensable *injury* in the course and scope of their employment with the COH *may* receive workers' compensation benefits in accordance with state statute, Texas Department of Insurance (TDI) regulations, and COH Executive Order No. 1-33, *Work Ability Guidelines.*

The Houston Police Department's Health and Safety Unit (HSU) is responsible for the internal administration and processing of workers' compensation claims. Employees having questions regarding occupational injuries or workers' compensation benefits and claims should contact HSU for assistance.

This General Order applies to all employees.

DEFINITIONS

Adjuster. An employee of the Third Party Administrator who investigates and adjudicates insurance claims.

Communicable Disease. See General Order 300-21, **Communicable Disease Policy**.

Exposure. Confirmed contact with an infectious agent, such as through inhalation, percutaneous inoculation (puncture or cut by a sharp object), or contact with an open wound, non-intact skin, or mucous membrane.

Fraud. When a person knowingly or intentionally conceals, misrepresents, or makes a false statement to deny, obtain, or prolong workers' compensation benefits or insurance coverage or otherwise profit from the deceit.

Injury. The damage or harm to the physical or neurological structure of the body and those diseases, conditions, or infections naturally resulting from the damage or harm. This term also includes occupational illness that is a bodily injury or health impairment resulting from exposure to conditions of the recovering employee's physical environment and/or work area.

Injury Leave. Leave authorized by Section 14-226 of the COH Code of Ordinances and Section 143.073 of the Texas Local Government Code and accorded to a recovering employee who sustains an injury or illness in the course and scope of employment with the COH.

Occupational Injury. An injury, disease, or illness sustained in the course and scope of employment with the City of Houston.

Third Party Administrator (TPA). Independent administrator contracted by the City of Houston to be responsible for the adjudication of workers' compensation claims including payments to recovering employees and health care providers in compliance with the law.

Transitional Duty Assignment. A temporary work assignment designed to allow an employee who is injured, ill, or unable to work at full-duty capacity to perform tasks that are within the specific restrictions set by the employee's *treating physician*.

Treating Physician. For the purpose of this General Order, an individual, group, or facility authorized by the City and the TDI to direct the medical treatment of a recovering employee.

Treating Physician's Statement. A document provided by an authorized health care provider after an office visit with an injured employee. The treating physician's statement must contain the following information: the date of the office visit, the date of the incident, the name and contact information of the health care provider completing the statement, the current work status of the injured employee, the range of dates covered by the statement, and the employee's work and/or activity restrictions, if any.

INJURED ON DUTY (IOD) FORMS, ETC.

The following injured on duty (IOD) and workers' compensation forms and related information sheets are available on the department's Intranet Portal and in the Health and Safety Unit.

Affidavit of Exposure to a Communicable Disease. Affidavit completed by an injured employee and used to request mandatory testing of the source of an exposure to a communicable disease.

Authorization for Disclosure of Protected Health Information. Medical release form, signed by an injured employee, which gives permission to disclose and receive the employee's medical records.

City of Houston Summary Workability Guidelines E.O. 1-33. This is a summary of the work ability guidelines in City of Houston Executive Order 1-33 regarding injured employees.

City of Houston Supervisor's Incident Report. Form used to document an employee's injury. This report provides a description of how the injury occurred, location of the injury, and the employee's personal information.

COH On the Job Injury Reference Sheet. Informs employees of their benefits and priority responsibilities while on injury leave or working a transitional duty assignment. Employees shall initial, sign, and date the form and follow the rules and procedures listed.

Employee Request for Travel and Authorization Form. Form completed and signed by an injured employee's treating physician allowing the employee to travel while the employee is on injury leave.

Injured or Ill Employees and Transitional Duty Report. Internal document, used to notify the Health and Safety Unit of employees who are working in a transitional duty assignment or unable to work due to an injury or illness.

Rx Card/Rx Pharmacy Network Information Sheet. A first fill card that allows an employee to receive initial prescriptions under the City's workers' compensation program at most pharmacies.

Texas Workers' Compensation Work Status Report (DWC Form-73). Report completed by an injured employee's treating physician indicating the employee's work status and activity restrictions. The *DWC Form-73* provides the employee's prognosis for discharge from treatment and work readiness, including the date of release to return to work and any restrictions upon returning to work at less than full duty.

The *DWC Form-73* also serves as a release to any type of transitional duty assignment or a return to full duty with no restrictions. The injured employee shall submit a *DWC Form-73* if any City work time is lost due to an occupational injury or while in a transitional duty assignment. The DWC Form-73 should be submitted by an employee to his immediate supervisor within 24 hours after receiving the completed form from the treating physician.

1 EMPLOYEE'S INITIAL DUTIES

Employees who are *injured* or potentially *exposed* to a communicable disease while in the course and scope of employment with the City of Houston (COH) shall:

a. Immediately notify or arrange for the notification of a supervisor. This shall be done, if physically possible, no later than 24 hours following the time of the injury or exposure.

b. Seek immediate medical attention if necessary and avoid any activity that may aggravate the injury. Employees shall seek medical attention from a treating physician who accepts workers' compensation patients. Failure to treat with an approved treating physician may make the employee ineligible for benefits under the Texas Workers' Compensation Act.

c. Review, initial, and sign the *COH On the Job Injury Reference Sheet* with a supervisor, if physically possible. Employees shall follow the rules and procedures listed on this form.

d. Employees who have potentially been exposed to a communicable disease shall also submit to baseline blood tests within ten *calendar* days following the exposure to a communicable disease. Employees shall complete the required injured on duty (IOD) forms including the *Affidavit of Exposure to a Communicable Disease*. Additionally, employees shall review and adhere to procedures outlined in General Order 300-21, **Communicable Disease Policy**.

2 SUPERVISOR'S INITIAL DUTIES

It is the supervisor's responsibility to ensure all of the initial IOD forms and required workers' compensation forms and documents are completed and forwarded to the Health and Safety Unit (HSU) within 24 hours after being made aware of the injury or event, or as soon as practicable. Upon being notified of an occupational injury or potential exposure to a communicable disease, a supervisor shall:

a. Arrange for prompt medical treatment of the employee, if necessary.

b. Advise the employee to seek medical attention from a treating physician that accepts workers' compensation patients. Failure to treat with an approved treating physician may make the employee ineligible for benefits under the Texas Workers' Compensation Act.

c. Initiate the process of filing the workers' compensation claim by completing the required IOD paperwork. Completely fill out the *City of Houston Supervisor's Incident Report* form with the injured employee as soon as possible, but no later than 24 hours after being made aware of the injury or event. The *City of Houston Supervisor's Incident Report* form shall be completed even if the employee does not seek medical attention. The HPD incident number (if applicable) shall be documented in the comments section of the form.

d. Review with the employee, the *COH On the Job Injury Reference Sheet* and have the employee initial, sign, and date this form. Additionally, supervisors shall request for the employee to complete, sign, and date the *Authorization for Disclosure of Protected Health Information* form.

   If the employee refuses to initial, sign, or date any of the IOD forms, the supervisor shall document the refusal on each form that the employee refused to acknowledge. The supervisor shall also have a witness sign and date the form noting the refusal.

e. Report the claim via telephone to the Third Party Administrator's Claim Reporting Service (CRS) as soon as possible, or within 24 hours after being made aware of the injury or event. Obtain a reference number from the CRS and document the number on the *City of Houston Supervisor's Incident Report* form. If the supervisor is unable to contact the administrator within 24 hours following the report of injury, the supervisor shall contact HSU for further instructions.

f. Forward a copy of the completed IOD forms via fax or email to HSU within 24 hours following the report of injury or exposure. The originals should then be forwarded directly to HSU via interoffice mail.

g. Provide the injured employee with a copy of all completed IOD forms and workers' compensation information documents including:

   1. *City of Houston Supervisor's Incident Report*

   2. *COH On the Job Injury Reference Sheet*

   3. *Rx Card/Rx Pharmacy Network Information Sheet*

   4. *City of Houston Summary Workability Guidelines E.O. 1-33* booklet

h. Provide the employee information on the Family and Medical Leave Act (FMLA), if applicable. FMLA notice is required whenever an employee reports a condition covered under FMLA guidelines (see General Orders 300-09, **Absence from Duty – Classified** and 900-01, **Absence from Duty – Civilian**).

Supervisors do not have the authority to authorize medical treatment or benefits. However, supervisors may inform a treating physician that a claim of occupational injury shall be or has

been reported to the COH's Third Party Administrator (TPA) and direct the treating physician to the TPA for authorization for treatment.

3 EMPLOYEE'S SUBSEQUENT DUTIES

Employees who have reported an occupational injury or possible exposure to a communicable disease while in the course and scope of employment with the COH shall follow certain subsequent procedures including:

a. Immediately report any change in their work status to their supervisor, assigned *adjuster*, and HSU.

b. Immediately report to their supervisor any condition preventing them from performing any of the essential functions of their job duties and any directive from their treating physician that may affect their work status.

c. Contact the TPA after each doctor's appointment to advise the *adjuster* of updated medical and work status.

d. Advise the treating physician that the department has a transitional duty assignment program. HPD promotes early return to work intervention and offers employees transitional duty assignments within restrictions given by physicians.

e. Submit a *DWC Form-73* or *treating physician's statement* after each physician visit. Employees shall submit to their supervisor a new *DWC Form-73* or *treating physician's statement* as long as they are on less than full-duty status and whenever they are seen by a physician, but no less frequently than every 30 *calendar* days.

f. Provide supervisors with all pertinent information relating to the injury including information that could facilitate recovery and expedite the return to duty.

g. Remain available on a daily basis to receive telephone calls from the *adjuster*, HSU, a supervisor, or other department personnel. Typically such telephone calls should be made between 9 a.m. and 5 p.m. There may be allowances for medical care, COH business appointments, or meetings with the Texas Department of Insurance (TDI) or the TPA.

h. Receive and return telephone calls and respond to all correspondence concerning the workers' compensation claim.

i. Cooperate fully and in a timely manner with all reasonable requests by any supervisors, the COH, TPA, or a treating physician. These requests may include, but are not limited to, the scheduling or conducting of any personal visits, obtaining second opinions concerning the medical or work status, or providing medical documentation.

Prohibited Activities

Employees who have filed a workers' compensation claim and are on injury leave, shall not engage in any activity that is in direct violation of their treating physician's orders including, but not limited to:

a. Working any extra employment. For purposes of this General Order, certain income-making efforts (e.g., in-home day care, Web design, telemarketing, online auctions) are considered to be extra employment.

b. Engaging in part-time or full-time work for pay or as a volunteer.

c. Self-employment.

d. Working for any other person whether for a profit or for a non-profit, firm, business, or corporation.

Training

Injured employees shall obtain authority and release from their treating physician in order to attend any training while on injury leave. Employees needing a waiver for any department or other mandatory training shall follow the procedures outlined in General Order 300-06, **Training – Classified** and General Order 900-02, **Training – Civilian**.

Scheduled and Unscheduled Leave

The use of scheduled or unscheduled leave for vacation purposes while an employee is on injury leave is prohibited unless the employee submits one of the below items to his supervisor and complies with restrictions as provided by the treating physician to recuperate from the injury. Such leave may be approved by only HSU.

a. A letter or report from the treating physician releasing and giving approval for the employee to use such leave and includes the *Employee Request for Travel and Authorization Form.*

b. An updated *DWC Form-73* that releases the employee to duty with restrictions or a transitional duty assignment.

Returning to Duty

Upon returning to work, employees shall submit a *DWC Form-73* to their supervisor and include a statement from the treating physician that the employee may return to full or transitional duty.

4 SUPERVISOR'S SUBSEQUENT DUTIES

If the incident involves an Internal Affairs Division (IAD) issue requiring correspondence, the issue shall be addressed in separate correspondence from the injury documentation.

Supervisors shall forward all *DWC Form-73* forms and *treating physician's statements* to HSU after they are received from an injured employee. When a supervisor is made aware that the *DWC Form-73* reflects that the employee may return to work with restrictions, the supervisor shall take the steps required under General Order 300-10, **Transitional Duty Assignment**.

Note: No one but HSU shall forward forms to the TDI or to the TPA.

Supervisors shall immediately notify HSU when becoming aware of an injured employee using scheduled or unscheduled leave for vacation.

Employee Contacts

Supervisors shall maintain contact with injured employees while they are on injury leave either by telephone or personal visits. Supervisors shall document the date, time, and results of any contacts. The purpose of maintaining contact with the injured employee is to determine the employee's status and to assist in any manner to facilitate recovery and expedite the return to duty.

Daily contact is not necessary if it is obvious from the nature of the injury that the employee shall be absent for a considerable length of time. Unless otherwise directed by the employee's division commander, supervisors shall contact an employee on injury leave at a minimum of once a week.

Mid managers shall contact an employee who is on injury leave between the fifth and tenth consecutive *calendar* days of the IOD absence. After the initial contact, mid managers shall repeat this process on a weekly basis.

Division commanders shall contact any employee who has been on injury leave for 30 consecutive *calendar* days. After the initial contact, division commanders shall repeat this process every two weeks.

Personal Visits

Supervisors shall conduct a scheduled or unscheduled personal visit with any employee who has been on injury leave for 30 consecutive *calendar* days. Supervisors shall continue to conduct personal visits with the injured employee at a minimum of once every 30 consecutive *calendar* days until the employee returns to duty. Personal visits may take place at the employee's home or place of recovery. Each supervisor shall report the details, date, and time of each visit to HSU via email within 24 hours following each visit.

Telephone contacts or personal visits may occur outside the employee's scheduled shift. Should a supervisor have reason to believe an injured employee is feigning *injury* or perpetrating *fraud*, the supervisor shall immediately cease all communication with the employee, notify HSU and IAD, and follow procedures in General Order 200-03, **Investigation of Employee Misconduct**.

5 STATE WORKERS' COMPENSATION BENEFITS AND CITY SALARY CONTINUATION

Eligible injured employees may receive compensation as regulated by the TDI in the form of indemnity payments. The amount of the indemnity payment varies depending on the circumstances of the individual case. Temporary Income Benefit (TIB) is a benefit paid by the TPA to an eligible municipal employee, which can equal 70 percent of the employee's workers' compensation average weekly wages, but not exceed the maximum TIB rates set by the TDI. Workers' Compensation Pay is the non-taxable wages paid by the City to a classified injured employee while out on injury leave, which can equal 70 percent of the employee's workers'

compensation average weekly wages, but cannot exceed the maximum TIB rates set by the TDI. The maximum and minimum TIB rates are adjusted and published yearly by the TDI.

As outlined in section 5.0 of COH Executive Order No. 1-33, salary continuation is a sum of money, before withholdings and deductions, paid by COH funds to supplement the TIB for a municipal employee who is eligible for salary continuation or the workers' compensation pay for a classified injured employee.

Any payment that creates an overage including, but not limited to, any COH funds paid to the employee, may be deducted from the injured employee's future earnings. Deductions shall not reduce the employee's earnings below minimum wage in any pay period. If an over payment occurs, the employee shall immediately contact the COH Administration and Regulatory Affairs (ARA) Department, Payroll Services.

6 INJURED OR ILL EMPLOYEES AND TRANSITIONAL DUTY REPORT

Division commanders shall add any injured or ill employee's name to the division's *Injured or Ill Employees and Transitional Duty Report*. This report shall be completed and submitted to HSU as outlined in General Order 300-10, **Transitional Duty Assignment**.

7 ADMINISTRATIVE PERSONNEL COMMITTEE

The Administrative Personnel Committee (APC) is a departmental committee that is responsible for ensuring compliance with all federal, state, and local laws with respect to determining whether an employee is physically and psychologically fit for duty. APC coordinates with employees who because of personal injury, illness, or psychological issue are unable to perform their essential job duties.

The APC chair has the discretion to consult with HPD's Office of Legal Services and the City Legal Department regarding any employee referred to APC.

8 DIVISION COMMANDERS' RESPONSIBILITIES

In addition to the other responsibilities outlined in this General Order, division commanders are responsible for initiating a written referral to the APC chair about an employee who because of personal injury, illness, or possible mental issue:

a. Appears to be unable to perform the essential job functions and such condition has lasted or is expected to last more than 90 *calendar* days.

b. Is unable to work or is working at less than full capacity for more than 90 *calendar* days.

The above referral requirement applies whether or not the employee is on transitional duty and whether the employee is experiencing an occupational or non-occupational injury or illness. Division commanders may also refer an employee to APC before 90 *calendar* days if warranted.

Referral to APC is not required for pregnant employees.

In addition to a description of the injury, illness, or possible mental issue forming the basis for the referral, the division commander's correspondence should also include:

c. The date the FMLA packet was provided to the employee and if the employee accepted or declined the FMLA coverage.

d. The number of days the employee was or has been absent from work as a result of the injury, illness, or mental issue.

e. If applicable, information on the employee's transitional duty status (date started, location of assignment, duties and responsibilities of assignment).

9 RECORD KEEPING AND CONFIDENTIALITY OF MEDICAL RECORDS

Each concerned division shall maintain a log for each employee who is on injury leave status. The log shall be updated daily to document all contacts made with the IOD employee or other concerned persons (e.g., spouse, relative, physician).

Contacts shall be documented whether initiated by the injured employee, a divisional employee, or another concerned person. The data collected for the log shall include, but is not limited to:

a. Dates, times, type of contact made, and its duration.

b. The name of the person or employee who initiated the contact.

c. A brief note outlining the contact.

Each division shall also maintain a workers' compensation file with all documentation, copies of forms, correspondence, notes, and updates that concern or relate to each IOD incident in accordance with General Order 800-12, **Records Retention**. The divisional workers' compensation file shall be kept separate from the division personnel files.

Employee-related medical information acquired by supervisors or other employees shall be kept confidential. All medical records pertaining to workers' compensation and the APC files are also confidential.

Access to or discussion of such information or records is restricted to persons who need to know in order to supervise the injured employee, conduct an investigation, or coordinate leave and benefits. Questions regarding access to such information or records should be directed to the department's Office of Legal Services.

10 WORKERS' COMPENSATION FRAUD

Under section 418.001 of the Texas Labor Code, a person may be prosecuted for the state jail felony offense of fraudulently obtaining workers' compensation benefits. Any employee who

has reason to believe another employee is fraudulently obtaining workers' compensation benefits shall immediately report this information to HSU and IAD. IAD shall notify the Office of Legal Services of the matter before generating an *Issue Record Form* (IRF).

11 FIREARMS QUALIFICATION

If an injury or illness prevents an officer from qualifying with or safely handling a firearm, the employee shall immediately notify a supervisor and shall follow procedures in General Order 400-05, **Firearms Qualification and Control**.

12 DRUG TESTING

When an employee is absent for over 30 consecutive *calendar* days for any reason, the employee's supervisor shall instruct the employee to submit to a drug test immediately upon returning to work (see General Order 300-17, **Employee Drug and Alcohol Testing**).

13 PHASE DOWN PROGRAM

Special rules may apply to employees who are in the Phase Down Program. Such employees shall refer to General Order 300-35, **Phase Down Program**, and shall seek direction from the Employee Services Division or HSU.

14 REFERENCE MATERIAL

City of Houston Executive Order No. 1-33, *Work Ability Guidelines*
Code of Ordinances City of Houston, Texas, §14-185
Code of Ordinances City of Houston, Texas, §14-226
28 Texas Administrative Code, Chapters 102-180, Texas Workers' Compensation Rules
Texas Labor Code, §401.011, General Definitions
Texas Labor Code, §418.001, Penalty for Fraudulently Obtaining or Denying Benefits
Texas Local Government Code, §143.073 and §143.1115

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