
	MESQUITE POLICE DEPARTMENT
	101.00 PERSONNEL COMPLAINTS & DISCIPLINE
	Effective Date: December, 2019
	Approved: _____  Chief of Police

I. Policy Statement

The Mesquite Police Department insists on professionalism and integrity from all employees. As the department is comprised of its employees, the department's image and reputation is a reflection of the personal integrity and discipline of all employees. In order to maintain the public trust, good order and discipline, the department must competently and impartially investigate all allegations of misconduct by employees. The following procedures outline the steps to investigate allegations made internally and externally and outline the responsibility and rights of each department employee during the investigations.

II. Procedure

- A. It is the responsibility of each employee of the department to perform the duties and assume the responsibilities of their position and rank in the investigation of complaints or allegations of misconduct regarding employees of the department, and to cooperate fully with any employee of the department conducting such investigation. Supervisors shall initiate investigations where warranted and shall report through the chain of command to the Chief of Police.
- B. Each alleged or suspected violation by an employee of the department shall be reported to a supervisor by any department employee who receives information of such alleged action.
- C. Complaints relative to differences of opinion between a police officer and a citizen over the issuance of a traffic citation will not be resolved through the complaint process, unless there is an allegation of a violation of law or departmental directives on the part of the officer. In such instances, any internal investigation shall be restricted to specific allegations of misconduct. Differences of opinion between a police officer and a civilian regarding the citizen's alleged violation of the law shall be resolved through the judicial process.
- D. The Chief of Police will be notified as soon as practical, of formal complaints against agency employees and agency volunteers.

III. Requirement for Making Complaints

Personnel complaints will be handled in accordance with the Texas Government Code, Chapter 614; Sections 614.021, 022, 023.

- A. Complaints must be made in writing and signed by the person aggrieved. An affidavit form is preferred; however, it is not required.
- B. A signed letter of complaint will be sufficient after verifying that it is not a fictitious letter signed with a fictitious name.
- C. A signed letter from a supervisor or other employee, who is aware of the facts, may fulfill the requirements of an internally originated complaint.
- D. Internal Affairs will conduct an investigation at the request of any employee of the department who justifiably feels threatened by a false accusation or contrived situation involving false evidence. Such persons are authorized to report this situation directly to Internal Affairs.

IV. Time Limit on Accepting Complaints

Personnel complaints will not be accepted more than thirty days after the alleged incident, with the following exceptions:

- A. When the complaint involves a criminal violation, the criminal statute of limitations will

- prevail. However, such limitations will not prevent the department from taking disciplinary action deemed necessary to preserve the integrity of the department.
- B. When the complainant can show good cause for not making the complaint within the specified time limit.
 - C. On direction of the Chief of Police based on findings of a preliminary investigation.
- V. Employees' Responsibility
- A. All employees of the Department
Each employee participating in a complaint investigation or having knowledge of the reported incident is required to report that information and may be required to submit a memorandum, addressed to the Chief of Police, before reporting off-duty on the day of his involvement, or at any other time as directed by the investigator. The report will include all information known or reported to him relating to the incident.
 - B. Supervisors
 - 1. Supervisors will initiate investigations when they become aware of infractions by any employee of the department. They will not look to higher authority for initiation of this action. Officers and non-sworn employees will report infractions to their supervisor.
 - 2. Minor violations which do not involve gross misconduct or moral turpitude and which will not reflect discredit upon the Department, but which indicate a need for some form of bureau level discipline and/or training, may be handled by the employee's supervisor.
 - 3. Any alleged or suspected violations that are not resolved by bureau level discipline will be recorded on a Mesquite Police Department Personnel Complaint Form. (Exhibit No. 100-3) The completed form shall be sent to Internal Affairs. If, in the opinion of the Watch Commander, the complaint is of such nature to warrant immediate referral to Internal Affairs, he shall do so.
 - 4. When the investigation of an accident involving a departmental vehicle reveals misconduct or a violation of departmental rules, these violations may be investigated in accordance with this order.
 - 5. The supervisor who first becomes aware of an employee's involvement in an alleged or suspected criminal violation or serious violation of departmental regulations will inform his on-duty Watch Commander as soon as possible. The on-duty Watch Commander will determine whether or not to relieve the accused from duty.
- VI. Externally Originated Complaints
- A. Citizens who telephone or appear in person to make a complaint against an employee of the department will be referred to the Station Sergeant. When the Station Sergeant is not available, citizens will be referred to any supervisor.
 - B. The Station Sergeant or supervisor will:
 - 1. Interview the complainant in person or by telephone, obtaining all pertinent information.
 - 2. Advise the complainant that, in order for action to be taken against an employee of the department, the complaint must be made in writing and signed by the complainant. If the complainant desires to sign the complaint, the supervisor will advise him to appear in person so the supervisor can obtain an affidavit.
 - C. If the Station Sergeant or supervisor deems any complaint serious enough to require immediate attention, he will notify the Watch Commander.
 - D. If the Station Sergeant or supervisor determines that there is no violation of policy or identifies a minor violation which does not involve gross misconduct or moral turpitude and which will not reflect discredit upon the Department, but which indicates a need for some form of counseling, bureau level discipline and/or training, it may be handled by the station sergeant or any supervisor. The Station Sergeant will send an email to the employee's bureau commander with a brief summary of the incident and what actions

were taken.

E. Harassment, Discrimination and Retaliation Complaints

1. No employee of this department shall be subject to any form of sexual intimidation, unwelcome sexual advances or other forms of harassment, discrimination or retaliation as defined in Chapter 17 of the City of Mesquite General Government Policies and Procedures.
2. Supervisors are required to take immediate and positive steps to eliminate any form of harassment, discrimination or retaliation when it comes to their attention.
3. Complaints concerning harassment, discrimination or retaliation will be reported and handled as follows:
 - a) If any employee has been subjected to any actions constituting harassment, discrimination or retaliation, it should be reported immediately to any supervisor.
 - b) All complaints of harassment, discrimination or retaliation will be handled according to Chapter 17 of the City of Mesquite General Government Policies and Procedures.

VII. Preliminary Investigations

To ensure the integrity of the department and maintain the confidence of the citizenry, it is sometimes necessary to conduct investigations into allegations of misconduct or mishandling of police incidents, even though the allegations do not meet the requirements for making formal complaints. These investigations will be considered preliminary and will not reflect on the personnel record of any employee involved unless a violation is identified, in which case a formal complaint will be authorized by the Chief of Police.

- A. Should the Chief of Police determine the preliminary investigation can best be resolved at the bureau level he may assign the incident to the Bureau Commander for a preliminary investigation.
- B. An investigation may be conducted into allegations from a third party at the discretion of the Chief of Police. Such allegations must be in writing and signed by a person with first-hand knowledge of the incident and must be brought within the time limit for accepting formal complaints.
- C. Allegations of bias based policing will be investigated.
- D. An investigation may be conducted into anonymous complaints but only at the specific direction of the Chief of Police.
- E. An investigation will be conducted into all allegations of criminal misconduct regardless of the source.
- F. The accused employee may be required to respond to the preliminary investigation by submitting a special report, including in it any information pertinent to the alleged incident.
- G. If the report has a discrepancy, is incomplete or inadequate, the accused employee may be required to prepare a supplement to the original report, or to report to Internal Affairs for an interview.
- H. Upon completion of the investigation, the investigator will submit a report containing all pertinent items of information (special reports, affidavits, etc.) to the Chief of Police. The Chief of Police will determine if the allegation is of such a nature to warrant a formal investigation.

VIII. Formal Investigations of Complaints

- A. Should the Chief of Police determine the allegation is of such a nature to warrant a formal investigation, he may forward it to the assigned Internal Affairs Investigator, or to such other investigator as may be designated.
 1. The investigator shall be responsible for ensuring a complete and expeditious investigation of the allegations. Each complaint shall be investigated to its logical conclusion, using all reasonable methods.
 2. A complaint form shall be completed with a summary of the allegations and

- signed by the complainant.
3. The employee shall be provided a copy of the complaint within a reasonable time after the complaint is filed.
 4. The investigator shall, if possible, interview the complainant, any civilian witnesses involved, reduce their statements to writing, and accumulate all documentary and physical evidence connected with the case.
 5. Each employee of the department who is involved in or who has knowledge relating to the incident under investigation shall, if requested, submit to an interview, and if requested shall submit an individual report to the investigator. The report shall be accurate and complete.
 6. Each complainant talked to in person shall be given an Internal Affairs Personnel Complaint Warning form by the Internal Affairs Investigator (Exhibit No. 100-2).
 7. Complainants who allege excessive force shall be asked to sign a form authorizing release of their relevant medical records to the investigator and a release permitting all doctors and other medical personnel to answer all questions of the investigator.
 8. After a factual statement of the complaint has been obtained, the alleged improper acts shall be identified and the complaint so designated in the file.
 9. All complainants and witnesses shall be asked to read and sign their statements. Failure to sign, however, shall not end the investigation, but such failure shall be noted in the file.
 10. If a complainant, witness, or person allegedly injured or improperly treated refuses to give a statement or cooperate in the investigation, the investigation shall proceed without such cooperation and all other information reasonably available will be obtained.
 11. Failure of a complainant or witness to cooperate will be noted in the file.
 12. Complainants and witnesses will be encouraged to come to Internal Affairs to give statements, but if the complainant or witness is unable or unwilling to cooperate, the investigator will offer to meet them at another location to obtain statements.
 13. Each complainant or witness shall be encouraged to thoroughly review his or her written statement and make any desired changes, deletions, or additions prior to signing.
 14. The date and time of each contact with any complainant, witness, or employee will be noted in the file.
 15. Any employee interviewed is ordered to answer all questions directed to them related to the matter under investigation. All questions shall be answered fully and honestly.
 16. The investigator shall maintain a courteous, patient, and professional attitude toward all complainants, witnesses and employees; shall strive to be fair and impartial; and to convey the department policy that all complaints be fairly heard and considered.
 17. Unless special circumstances prevent it, all investigations must be completed within the stated due date.
 18. Where an allegation involves the use of alcohol or drugs, the employee may be allowed, requested, or required to submit to a chemical test or tests.
 19. An employee may be allowed, requested, or required to submit to a polygraph examination.
 20. Should it be determined at any point in the investigation the complaint is clearly unfounded, the investigation will be terminated and the facts reported to the Chief of Police.

- B. The investigator assigned to the complaint will submit the completed file to the Chief of Police. The Chief will review the investigation for completeness and then assign the case to one or any combination of the following: Staff Review Committee, Chain of Command Review or Command Staff Review.
 - C. The Chief of Police may also by-pass any of the above mentioned reviews and determine classification of the complaint as one of the following:
 - 1. Unfounded - Allegation is false or not factual.
 - 2. Exonerated - Incident complained of did occur but was lawful and proper.
 - 3. Not Sustained - Insufficient evidence either to prove or disprove the allegation.
 - 4. Sustained - Allegation is supported by sufficient evidence.
 - 5. Violation not related to initial complaint.
 - D. If a legal issue is involved, the City Attorney's Office will review the completed investigation.
 - E. Upon conclusion of the investigation, if the allegation or incident is classified as unfounded, exonerated, or not sustained, Internal Affairs will notify the accused, in writing.
 - F. If the allegation is sustained, recommendations will be sought and discipline imposed as described elsewhere in this order.
- IX. Summary Investigations
- A. Should the Chief of Police determine the complaint can best be resolved at the bureau level he may assign the incident to the Bureau Commander for a summary investigation.
 - B. The following procedure will apply to summary investigations:
 - 1. On receipt of a signed, written complaint, Internal Affairs will assign a summary investigation number (not a control number required for formal investigations) and forward the complaint to the accused employee's Bureau Commander.
 - 2. The Bureau Commander will assign a supervisor to conduct an investigation. A supervisor who was involved in the incident or who for any reason may have difficulty remaining impartial will not be assigned.
 - 3. The assigned supervisor will conduct an investigation of the incident by contacting and interviewing all available witnesses and participants, both department employees and citizens, and examining any other evidence. The employee may be required to respond to the complaint by submitting a special report including in it all information pertinent to the alleged incident. The investigating supervisor will ensure that all the allegations are addressed and pertinent questions are answered.
 - 4. After completing the investigation, the supervisor will inform the complainant of his findings. The supervisor will complete the action/ comments portion of the personnel complaint form and forward it to the Bureau Commander for review and concurrence or non-concurrence. Non-concurrence will be documented in a separate memorandum. The investigating supervisor's comments will contain:
 - a) specific documentation of each step in the investigation to include in particular the employee's denials or admissions and other material statements made by the employee or others,
 - b) any other evidence gathered, to include copies of all related reports, etc.,
 - c) the supervisor's conclusions and recommendations,
 - d) documentation of final contact with the complainant and explanation of the outcome, and
 - e) required paperwork for any discipline administered.
 - 5. If at any time, more serious allegations are encountered, the investigating supervisor will immediately request a formal investigation.
- X. Investigations Involving Alleged Criminal Violations
- A. The Major Crimes Unit will be notified and will be responsible for the criminal

investigation and filing of any criminal charges unless otherwise directed by the Chief of Police.

- B. All homicides or other deaths involving departmental employees may be submitted to the Grand Jury for review.
- C. Police shooting incidents which result in death or injury may be submitted to the Grand Jury for review.
- D. Other incidents involving alleged criminal violations, where guilt or innocence cannot be clearly established, may be referred to the Grand Jury.

EMPLOYEE'S RIGHTS

DURING ADMINISTRATIVE INVESTIGATIONS

- I. Requirement to Answer Questions
 - A. An employee may be required to answer questions relating to his duties, and he can be disciplined up to and including dismissal for refusal to answer such questions.
 - B. Interviews with the employee will be conducted at a reasonable hour.
 - C. The employee will be informed of the nature of the investigation and of the identity of the investigating officer.
 - D. Interviews will be reasonable in length, with rest periods as required for meals or personal matters.
 - E. A copy of any written statement produced by the employee will be provided to him, upon request.
 - F. Any evidence against himself which an employee is compelled to produce will not be used in any criminal action against that employee.
 - G. Upon receipt of notification from the Chief of Police of a suspension or demotion, the employee will have all appeal rights in accordance with Local Government Code Chapter 143 and/or the current Meet and Confer Agreement.
- II. Counsel's Presence During Interview
 - A. The accused employee will not be permitted to have counsel present during an interview regarding an administrative investigation. The Sixth Amendment Right to counsel does not apply to civil or administrative matters.
- III. Garrity Warning
 - A. The Garrity Warning informs employees: (See Exhibit 100-1)
 - 1. They are required to respond to allegations or submit to tests or examinations regarding allegations of violations of administrative rules or regulations. That failure to respond or submit can result in disciplinary action up to and including termination.
 - 2. That such questions, tests, or examinations results cannot and will not be used against the employee in a criminal matter.
 - B. The Garrity Warning will be given before requiring a response from employees suspected of violations of administrative rules and regulations requiring a formal investigation.
- IV. Search of Equipment
 - A. Reasonable searches of departmental equipment (lockers, desks, squad cars, etc.) files (including computer files), and facilities assigned to the exclusive use of an employee may be conducted by a supervisor if it is a routine search, for the maintenance of discipline, or for security purposes. A search under the guise of supervision to recover evidence to be used in a criminal prosecution might be unreasonable unless done with consent, with a warrant or with probable cause.
 - B. If a search is initiated for the purpose of securing evidence to be used in an administrative disciplinary action, the search would be reasonable. The search must be for the enforcement of departmental regulations and not the discovery of criminal violations.

V. Special Examinations

An accused employee may submit a written request for a behavioral cause investigation or a blood, urine, or polygraph test or physical examination, if they believe such would be beneficial to their defense. This may be approved by the Chief of Police or an Assistant Chief of Police. The department may require such tests of an accused employee. The results of such tests would be limited to administrative use except as provided by law.

**COMPLETION OF
COMPLAINT INVESTIGATIONS**

I. Confidentiality of Investigation

- A. All complaint investigations will be classified as "confidential" and no portion of the investigation may be reproduced without permission of the originating authority.
- B. All copies of completed investigations bearing an Internal Affairs control number will be returned to Internal Affairs by the person who received them.
- C. Any confidential documents related to an investigation shall be kept secure by all persons.
 - 1. The Internal Affairs supervisors will keep all documents secured in a locked storage room, with limited access.
 - 2. Any person possessing any portion of an investigation will keep those documents secure as to not allow unauthorized access. Employees will keep the documents in a secure location when not reviewing the materials.

II. Staff Review Committee

At the discretion of the Chief of Police, the incident may be referred to a Staff Review Committee for a recommendation on the finding and any resulting disciplinary action.

- A. The Staff Review Committee will be an ad hoc committee appointed by the Chief of Police or his designee.
- B. The committee shall be composed of:
 - 1. three (3) command-level officers (Captains and/or Lieutenants),
 - 2. one (1) first line supervisor (Sergeant), and
 - 3. two (2) peers of the affected employee (police officers are eligible as peers of any civilian employee), one of whom may be selected by the accused.
- C. No employee subordinate in rank to the accused employee should be appointed. If necessary to fulfill this provision, the Chief of Police will appoint special members to the board for a specific hearing.
- D. The committee shall not include a person who:
 - 1. initiated the personnel complaint,
 - 2. participated in an investigative role of the complaint,
 - 3. was present and a witness, whether involved or not, when the alleged violation occurred,
 - 4. may have difficulty remaining impartial,
 - 5. is the employee's immediate supervisor,
 - 6. is the employee's Lieutenant or Watch Commander,
 - 7. is the employee's Bureau Commander.
- E. Any Staff Review Committee member selected has the responsibility to inform the Chief of Police if there is a hidden or unforeseen conflict which would prejudice their decision.
- F. Conduct of the Staff Review Committee
 - 1. At least forty-eight hours prior to a hearing, Internal Affairs will furnish a copy of the investigative report to each member to allow sufficient time for them to acquaint themselves with the general aspects of the complaint and investigation

2. These copies will not be further duplicated. The Chairman of the Committee will be responsible for collecting and returning these copies to Internal Affairs.
 3. The Staff Review Committee will review the facts and circumstances surrounding the incident.
- G. The affected employee shall be notified of the Staff Review Committee hearing. He or she may appear before the Staff Review Committee, and shall appear if ordered to do so. It will be the responsibility of the Chairperson to ensure notification of the employee has been made.
 - H. A decision by the affected employee not to appear shall not be considered in the committee's deliberation, decision, or recommendation.
 - I. The committee may call other persons, whether employees of the department or not, whose appearance would be beneficial to the committee in reaching a conclusion.
 - J. An affected employee will be permitted to be present only when he or she is being heard and questioned, and not during any other part of the proceeding.
 - K. Committee meetings shall not be open to the public.
 - L. After reviewing the evidence, the Staff Review Committee may remand the case to Internal Affairs for further investigation.
 - M. The committee shall recommend to the Chief of Police their finding and disciplinary action, if any, to be taken against the officer. Findings and recommendations need not be unanimous. If not unanimous, the report shall so indicate and shall reflect the viewpoints of all committee members.
 - N. At the discretion of the Police Chief, copies of the case file will be made available to each supervisor in the affected employee's chain of command for a Chain of Command Review. Each supervisor will review the file and provide an independent conclusion and recommendation to the Chief of Police. Each supervisor shall return his conclusion and recommendation, under seal, to the Internal Affairs office within the specified time after receipt of the file.
 - O. At the discretion of the Police Chief, copies of the case file will be made available to each bureau commander for a Command Staff Review. Each bureau commander will review the file and provide an independent conclusion and recommendation to the Chief of Police. Each bureau commander shall return his conclusion and recommendation, under seal, to the Internal Affairs office within the specified time after receipt of the file.
 - P. The Chief of Police may accept, reject, or modify the recommendations submitted by the Staff Review Committee and supervisory personnel.
- III. Decision by the Chief
- A. Upon receipt of a case from a Staff Review Committee, Chain of Command Review, Command Staff Review, or from Internal Affairs if no other referral is made, the Chief shall review the evidence and recommendations, and
 1. make a final determination, or
 2. remand the case for further investigation.
 - B. The Chief's determination shall be "Sustained," "Not Sustained," "Exonerated," or "Unfounded."
 1. "Sustained" means the evidence is sufficient to support the allegation.
 2. "Not Sustained" means the evidence is insufficient to prove or disprove the allegation.
 3. "Exonerated" means the conduct complained of occurred, but was not wrongful.
 4. "Unfounded" means the allegation is false or there is no credible evidence to support it.
 - C. In making his determination, the Chief may weigh the refusal of a complainant or witness to make or verify a statement, or otherwise cooperate.
 - D. When the Chief finds a complaint "sustained", he will invoke the appropriate disciplinary

- or corrective action, which may include termination, suspension, demotion, reprimand, departmental counseling, outside counseling, remedial training, or other appropriate action.
- E. Even though a finding is "not sustained", "exonerated", or "unfounded", the Chief may order preventive measures to deal with a potential problem.
After a decision has been made, the Chief shall notify the complainant in writing of the disposition of the case.
 - F. A copy of the Chief's determination shall be sent to the accused employee.
 - G. A copy of all disciplinary or corrective actions resulting from sustained complaints pertaining to an employee shall be placed in his or her departmental personnel file, and in Internal Affairs.
 - H. After the Chief's review is complete, all papers or evidence connected with the case shall be transmitted by the Chief to Internal Affairs for filing.

PUNISHMENT AND APPEAL

- I. Bureau Level Discipline for Less Serious Infractions of Rules
 - A. Bureau Level Discipline provides immediate disciplinary action against employees who fail to conform to certain departmental standards of conduct and appearance. This procedure does not require a control number and subsequent investigation. Bureau Level Discipline may be imposed within the employee's chain of command by an advisory memo or an oral reprimand. Advisory memos and oral reprimands will be documented by the supervisor in a memorandum to the subordinate.
 - B. Action under this section will not bar a recommendation for a more severe penalty by higher authority when it is felt that Bureau Level Discipline is being used for a transgression warranting a more severe penalty.
- II. Letters of Reprimand
 - A. When the recommended disciplinary action is a written reprimand, normally the employee's Bureau Commander will prepare a letter of reprimand, unless directed by the Chief of Police. It will be addressed to the employee and contain the minimum following information:
 - 1. a brief description of the incident involving the employee, and
 - 2. the specific rule violated.
 - B. Written reprimands issued to sworn and non-sworn personnel will close with the following statement: A copy of this reprimand will be placed in your departmental file.
- III. Resignations and Suspensions

When an employee of the department is suspended or relieved of duty, his or her service weapon, I.D. card, wallet badge and breast badge may be given to the Chief of Police or his designee at the time the suspension order is received by the employee.

ADMINISTRATION OF PROCEDURES

- A. The procedures herein will be administered consistently with the Civil Service Commission Rules and Regulations, and with State and Federal Law.
- B. The procedures set forth herein are to be construed as guidelines, subject to the discretion of the Chief of Police, for the purpose of ensuring that all complaints are fairly considered. Deviations from these procedures shall in no way affect the validity of any disciplinary action.
- C. Employee Disciplinary Procedure

Responsibilities of the supervisor for the disciplinary process utilized within the Mesquite Police Department are as follows:

 - 1. Advisory Memo

The Advisory Memo is to be prepared by an employee's immediate supervisor and is used to document counseling sessions.
 - 2. Oral Reprimand

- Oral Reprimands are to be prepared by a lieutenant or above on an Advisory Memo form. It will be noted in the appropriate place as an Oral Reprimand and signed by the supervisor and employee.
3. Written Reprimand
Formal written reprimands are to be issued by the Bureau Commander according to the guidelines established by the City Attorney's office. A complaint form shall be completed and assigned a control number. Written Reprimands will be kept in the employee's departmental file.
 4. Suspension
Suspensions are prepared by the Chief of Police according to guidelines established by the City Attorney's office. Documentation of suspensions are to be kept in the employee's permanent personnel file and departmental file.
- D. Any discipline that has been issued to an employee will be entered into the Department's electronic tracking system by the issuing supervisor or the Chief of Police's designee.
- E. Records Retention
1. Bureau Level Discipline
 - a) Advisory Memos are to be maintained in the Department's electronic tracking system and removed after three years from the date of issuance.
 - b) Oral Reprimands are to be maintained in the Department's electronic tracking system and removed after three years from the date of issuance.
 2. Internal Affairs Files
 - a) All officer involved shooting incidents that result in death or injury to any person, including a police officer, will be kept permanently.
 - b) Any formal complaint that is "sustained" will be maintained in the employee's internal affairs file until the date of separation. After the date of separation, the below schedule will be followed:
 - (1) Indefinite Suspension – Permanent
 - (2) All other Suspensions – 15 years after the date of issuance
 - (3) Written Reprimands – 15 years after the date of issuance
 - (4) Oral Reprimands – 5 years after the date of issuance
 - (5) Advisory Memo – 5 years after the date of issuance
 - c) Any formal complaint that is "not sustained", "unfounded" or "exonerated" will be maintained in the employee's internal affairs file for 3 years after the date of disposition.
 - d) All written complaints and records of oral complaints received from the public that do not lead to an internal affairs investigation, otherwise known as preliminary investigations, will be maintained 2 years from the date of disposition.
 - e) If an employee retires or resigns during an investigation of a formal complaint, the record will be kept permanently.

EFFECTIVE: May, 1988; REVISED: September, 1990; FORMERLY: B/88-1; REVISED: January, 1992; REVISED: January, 1996; REVISED: March, 1997; REVISED: August, 2003; REVISED: March, 2004; REVISED: June, 2005; REVISED: August, 2011; REVISED: March, 2013; REVISED: July, 2017; REVISED: January, 2019; REVISED: December, 2019

Garrity Statement

On _____ (date), _____ (time), at 777 N. Galloway, I was ordered to submit this report (give this statement) by _____ (name and rank). I submit this report (give this statement) at his order as a condition of employment. In view of possible job forfeiture, I have no alternative but to abide by this order.

It is my belief and understanding that the department requires this report (statement) solely and exclusively for internal purposes and will not release it to any other agency or authority except as is required by law. It is my further belief that this report (statement) will not and cannot be used against me in any subsequent proceeding other than disciplinary proceedings within the confines of the department itself.

For any and all other purposes, I hereby reserve my constitutional right to remain silent under the FIFTH and FOURTEENTH AMENDMENTS to the UNITED STATES CONSTITUTION and other rights PRESCRIBED by law. Further, I rely specifically upon the protection afforded me under the doctrines set forth in *Garrity vs. New Jersey*, 385 U.S. 493 (1967), and *Spevack vs. Klein*, 385 U.S. 511 (1967), and *Gardner vs. Broderick* 392 U.S. 273 (1963), should this report (statement) be used for any other purpose of whatsoever kind or description.

(Signature)

Exhibit No. 100-1 Garrity Statement

Mesquite Police Department
Internal Affairs
PERSONNEL COMPLAINT WARNING

Art. 6252-20. Complaints against law enforcement officers; writing; signature

In order that a complaint against a law enforcement officer of the State of Texas, including but not limited to officers of the Department of Public Safety and the Liquor Control Board, or against a fireman or policeman may be considered by the head of a state agency or by a chief or head of a fire department or police department, neither of which is under the protection of a civil service statute, the complaint must be placed in writing and signed by the person making the complaint. A copy of the signed complaint must be presented to the affected officer or employee within a reasonable amount of time after the complaint is filed and before any disciplinary action may be taken against the affected employee.

(Acts 1969, 61st Leg., p. 1333, ch. 407, para 1, emerg. eff. June 2, 1969)

**Texas Penal Code
Section 37.02. - Perjury**

- (a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning:
 - (1) he makes a false statement under oath or swears to the truth of a false statement previously made; and the statement is required or authorized by law to be made under oath.
- (b) An offense under this section is a Class A misdemeanor.

**Texas Penal Code
Sec. 37.08. False Report to Peace Officer or Law Enforcement Employee**

- (a) A person commits an offense if, with intent to deceive, he knowingly makes a false statement that is material to a criminal investigation and makes the statement to:
 - (1) a peace officer conducting the investigation.
- (c) An offense under this section is a Class B misdemeanor.

**Texas Penal Code
Sec. 37.10. Tampering with Governmental Record**

- (a) A person commits an offense if he:
 - (1) knowingly makes a false entry in, or false alteration of, a governmental record;
 - (2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record; or
 - (3) intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record.

Mesquite Police Department
Internal Affairs
PERSONNEL COMPLAINT WARNING

- (b) It is an exception to the application of Subsection (a)(3) of this section that the governmental record is destroyed pursuant to legal authorization.
- (c) An offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which the offense is a state jail felony.

I, _____, have read the above article of the Revised Civil Statutes of Texas and sections of the Texas Penal Code. I understand the requirements for the filing of a formal complaint and the penalties for the filing of false complaints. I am hereby voluntarily initiating this complaint against

_____, an employee of the Mesquite Police Department.

Affiant

Address City State Zip Telephone

SUBSCRIBED AND SWORN to before me on this the _____ day of

_____ AD 20_____.

Notary Public, Dallas County, Texas

MESQUITE POLICE DEPARTMENT
PERSONNEL COMPLAINT FORM



CONTROL NUMBER: <input type="text"/>		
HOW RECEIVED:	<input type="checkbox"/>	TELEPHONE
	<input type="checkbox"/>	PERSON
	<input type="checkbox"/>	LETTER
COMPLAINANT: <input type="text"/> Last, First MI.		
SIGNATURE: <input type="text"/>		
DATE OF INCIDENT: <input type="text"/>	LOCATION OF INCIDENT: <input type="text"/>	
EMPLOYEE: <input type="text"/>		
SUMMARY OF COMPLAINT: <input type="text"/>		
SPECIFIC VIOLATION: <input type="text"/>		
COMPLAINT ASSIGNED TO: <input type="checkbox"/> BUREAU <input type="checkbox"/> I.A.D. <input type="checkbox"/> OTHER		
ASSIGNED BY: <input type="text"/>	DATE: <input type="text"/>	DUE DATE: <input type="text"/>
SUPERVISOR'S ACTION/COMMENTS: <input type="text"/>		
EMPLOYEE RECEIPT ACKNOWLEDGEMENT:		
DELIVERED BY: <input type="text"/>	DATE: <input type="text"/>	TIME: <input type="text"/>

Exhibit No. 100-2.1

