

COMPLAINT INVESTIGATION AND RESOLUTION

SECTION 1 POLICY

It is the policy of the Argyle Police Department to document and investigate all written allegations of employee misconduct. The primary objectives of such investigations are:

Protection of the Public. The public has the right to expect efficient, fair and impartial law enforcement. Therefore, any misconduct by department personnel must be detected, thoroughly investigated, and properly adjudicated to assure the maintenance of these qualities.

Protection of the Department. The department is often evaluated and judged by the conduct of individual members. It is imperative that a few personnel not subject the entire organization to public censure because of misconduct. When an informed public knows the Police Department honestly and fairly investigates and adjudicates all allegations of misconduct against members, this public will be less likely to feel any need to raise a cry of indignation over alleged incidents of misconduct.

Protection of the Employee. Employees must be protected against false allegations of misconduct. This can be accomplished only through a consistently thorough investigative process.

Removal of Unfit Personnel. Personnel who engage in serious acts of misconduct, or who have demonstrated they are unfit for law enforcement work, must be removed for the protection of the public, the department, and department employees.

Correction of Procedural Problems. The department is constantly seeking to improve efficiency. Occasionally, personnel investigations disclose faulty procedures that would otherwise have gone undetected. These procedures can then be improved or corrected.

SECTION 2 FORMS OF DISCIPLINARY ACTION

Disciplinary action, when warranted, may be in any one or more of the following forms:

1. Training
2. Re-training
3. Oral reprimand
4. Written reprimand
5. Suspension with pay
6. Demotion
7. Termination

The severity of the disciplinary action taken will be commensurate with the seriousness of the violation.

SECTION 3

EXTERNAL ALLEGATIONS

- A. Allegations of misconduct may be presented by supervisors, other employees of this department, members of the general public, or public officials. This Section sets forth the method to handle allegations received from persons outside the Department.
- B. External allegations that assert misconduct not criminal in nature must be received within forty-five (45) days of the act. Allegations asserting misconduct that is criminal in nature will be received within their respective statutes of limitations as specified in the current Code of Criminal Procedure.
- C. When possible, allegations of misconduct received from external sources will be reduced to writing and signed by the complainant.
- D. As soon as practical and before the imposition of any discipline, the employee under investigation shall receive a copy of the complaint against him and have an adequate opportunity to rebut those charges.
- E. The Chief of Police shall record and maintain a log of every external allegation coming before him under this Section. The control log shall contain the following information:
 - 1. A separate control number for each allegation or matter;
 - 2. Name, rank, and identifying number of the employee involved;
 - 3. Date and hour report received;
 - 4. Name and address of the complainant, if known;
 - 5. Disposition of investigation;
 - 6. Hearing disposition, if any; and
 - 7. Action taken, if any.
- F. Only the Chief of Police or his designee may receive access to the control Logs and all complaint and investigatory materials must be kept confidential throughout the investigatory process and may or may not be released once the investigation is completed dependent on special circumstances in reference to the Open Records Act.
- G. Anonymous allegations of misconduct, whether oral or written, will be courteously accepted. However, an anonymous allegation will be investigated only at the Chief's discretion or if it involves an alleged felony or class A or B misdemeanor.

- H. The Chief of Police, or his designate, shall have the responsibility for investigating allegations of misconduct by employees of the department.
- I. Promptly upon receipt of an allegation of misconduct, the Chief of Police shall assign an investigator to that matter. When feasible, and if appropriate, the employee shall receive a summary of the charges against him.
- J. The investigator shall make every effort to interview the complainant (if known), the accused employee, witnesses, the employee's immediate supervisor, and any other persons whose statements might assist in the just resolution of the matter.
 - 1. Every statement shall be reduced to writing and verified by both the person making it and the investigator.
 - 2. Every page shall include the log number, be sequentially numbered, and be initialed by both the person making the statement and the investigator.
- K. Whenever a complainant or witness refuses either to make a statement or to verify a statement made and transcribed, the investigator shall note this refusal and any explanation in the record. A reviewing authority may weigh the refusal to make a statement or to verify a statement when considering the case and deciding whether to continue the investigation.
- L. Whenever chemical or other tests or photographs of the employee seem reasonably necessary to the investigation, the Chief may, with a written order, require such tests performed or photographs taken.
- M. When ordered by the Chief, an employee shall submit to a polygraph examination concerning the matter under investigation. However, when a citizen's complaint forms the basis for the investigation, and the conduct complained of is non-criminal, and no corroborating information has been discovered, the Chief will not require the employee to submit to a polygraph examination unless the citizen first submits to one.
- N. Any interview of the employee involved shall take place at a reasonable time in relation to the employee's work schedule, unless the situation requires otherwise. The interviewer shall identify himself to the employee and inform him of the administrative or criminal nature of the investigation. The interview may be recorded and transcribed. The employee shall receive a copy upon request.
- O. The Chief or his designate may order the employee to answer all material and relevant questions specifically, directly, and narrowly relating to the employee's performance of his official duties. However, any statement, and the fruits of that statement made by an employee based on a threat of dismissal for failing to respond will be inadmissible against him in any subsequent criminal proceeding.

- P. In accordance with the type of investigation, the employee will be informed that his failure or refusal to answer any appropriate question, to take any test, or to be photographed is grounds for discipline or dismissal from the Department as conduct prejudicial to good order.
- Q. If an employee is under arrest or is a suspect in a criminal investigation and any answer sought by the investigator, or any information derived from such answer, is intended for use in a criminal trial, the employee shall be informed of his constitutional rights via the Miranda Warning.
- R. Upon completion of his investigation, the investigator shall prepare a detailed report of his investigation and conclusions. The investigator shall arrive at one of the following general conclusions:
 - 1. The investigation tends to disprove the allegation of misconduct,
 - 2. The investigation tends to support the reported facts but the conduct does not appear improper,
 - 3. The investigation yielded insufficient information either to prove or disprove the allegation of misconduct, or
 - 4. The investigation tends to support the allegation of misconduct.
- S. All pages of all investigatory reports and other documents relating to investigations shall be identified by log number. One copy of every report shall be retained in the Internal Affairs files.
- T. Unless special circumstances prevent it, all investigations must be completed and a report made and presented to the City Council in executive session within 30 days from the receipt of the original allegation.

SECTION 4 INTERNAL ALLEGATIONS

- A. Allegations of misconduct may be presented by supervisors, other employees of this department, members of the general public, or public officials. This Section sets forth the method to handle allegations received from persons within the Department.
- B. Internal allegations that assert misconduct not criminal in nature must be received within forty-five (45) days of the act. Allegations asserting misconduct that is criminal in nature will be received within their respective statutes of limitations as specified in the current Code of Criminal Procedure.

- C. All internal allegations of misconduct shall be reduced to writing in memorandum form and addressed to the Chief of Police. The employee complained of shall receive a copy of the memorandum, within (5) five working days and will be given an adequate opportunity to rebut the charges.
- D. The Chief of Police shall record and maintain a log of every internal allegation coming before him under this Section. The control log shall contain the following information:
 - 1. A separate control number for each allegation or matter;
 - 2. Name, rank, and identifying number of the employee involved;
 - 3. Date and hour report received;
 - 4. Name and rank of the complainant;
 - 5. Hearing disposition; and
 - 6. Action taken, if any.
- E. Internal allegations will not be referred for further investigation unless deemed necessary by the Chief of Police. If referred for further investigation, then sub-sections H through S of Section 3 of this Chapter shall apply.

SECTION 5 CONDUCT DURING INTERNAL INVESTIGATIONS

- A. When an employee is under investigation based on an internal or external complaint, that employee is strictly forbidden from interfering with or intervening in the investigation being conducted, or from taking any retaliatory action toward the complainant, witnesses, the investigator, or anyone else concerned with or involved in the investigation. Any such conduct, when brought to the attention of the Chief of Police, may result in the cessation of the investigation and the immediate dismissal of the offending employee.
- B. All employees who are interviewed during an internal investigation should not discuss the content or context of their interview with any person other than the investigator without express permission from the Chief of Police.

SECTION 6 HEARINGS

- A. An informal administrative hearing will be held by the Chief of Police after formal charges are filed against an employee.

- B. The degree of proof required for an administrative hearing is reasonable proof.
- C. An employee shall not be disciplined except for reasonable cause involving a sustained violation of a statute, ordinance, departmental rule, regulation, order, or procedure.
- D. Within three (3) working days of the conclusion of the hearing, the Chief of Police will reduce his findings and actions to writing in a memorandum which will be placed in the employee's personnel file. The affected employee will receive a copy of the memorandum. All disciplinary action will be in accordance with Section 2 of this Chapter.

SECTION 7 SUPERVISORY REPRIMANDS

- A. A supervisor shall have the authority to reprimand a subordinate employee for minor infractions. Such reprimands, whether oral or written, may include a warning, corrective advice, or recommend additional counseling or training. A supervisor properly imposes a reprimand when he reasonably determines that the alleged misconduct does not require further investigation or action.
- B. After imposing a reprimand, the supervisor shall explain that reprimand in a memorandum to the Chief of Police.
- C. The supervisor shall also promptly notify the involved employee that he has the right to have a supervisory reprimand reviewed. If the employee desires such review, he shall notify the Chief within five working days of receiving the supervisory reprimand. By failing to request such review, the employee permanently waives his right to such review.

SECTION 8 RELIEF FROM DUTY

It shall be the duty of all supervisors and commanders to take corrective action whenever they, through personal observation or report, learn of any violations of Departmental rules.

- A. Should the violation involve an incident of gross misconduct or moral turpitude, the supervisor or commander detecting the violation may relieve the offender from duty and may take up any credentials issued by the Police Department. The offender will be instructed to report at 9:00 AM the following business day to the office of the Chief of Police.
- B. Proper written reports will be submitted by the supervisor or commander, who will also report to the Office of the Chief of Police at the time the offender reports.

SECTION 9 PROBATIONARY EMPLOYEES

- A. An initial probationary period of (6) months for police officers shall be served following actual employment by the Department.
- B. An employee, during the period of initial probation, may be disciplined or discharged for any reason by the Chief of Police without a hearing provided there is no public disclosure of the reasons for the action taken. A probationary employee shall be privately advised of the reasons for his discipline or discharge.
- C. A disciplined or discharged probationary employee may submit a written rebuttal or explanation in response to the discipline or discharge. The rebuttal or explanation must be received within five (5) days of disciplinary action taken.
- D. Following promotion to a higher position, all employees shall serve a period of six (6) months probation. During this period of probation, an employee may be reduced to his prior position without a hearing.

SECTION 10 REPORTS OF COUNSELING

- A. Employees may be counseled by a supervisor when their performance or conduct is deemed inappropriate by the supervisor.
- B. Such counseling should inform the employee of the conduct or performance needing improvement, and may specify a period in which improvement is expected.
- C. All counseling sessions should be documented by the supervisor on forms prescribed by the Chief of Police.
- D. Counseling will not be considered disciplinary action and appeal from or review of such counseling is not authorized.

SECTION 11 AUTHORITY OF CHIEF

Nothing in this Chapter shall reduce the authority of the Chief of Police to take immediate disciplinary action without further investigations or hearings when he witnesses a violation.

COMPLAINT PROCEDURES

Persons desiring to make a complaint must understand the importance of submitting their complaint in writing with their signature affixed. (The Texas Government Code, Section 614.022, provides that all complaints to be considered on law enforcement officers must be in writing and signed by the person making the complaint.)

Persons complaining orally, or by E-mail, will be requested to submit their complaint in writing with their signature affixed, and will be provided the appropriate Personnel Complaint Affidavit. The Affidavit forms are also available from the Internet through the Department's Web Page. http://www.argyletx.com/police/complaints_against_an_officer.htm

A person refusing to make a written complaint or who makes an anonymous complaint does not necessarily prevent an investigation from being initiated on the facts provided, but does cause the matter to be more difficult to process to an effective conclusion.

Upon receipt of a complaint, a notification will be prepared and sent to the complainant informing him or her that the complaint is to be investigated and that they will be contacted personally, if at all possible, by the investigator to discuss in detail the allegation(s) made against the Department employee.

Department policy and the Texas Government Code both require a copy of the formal complaint be presented to the employee within a reasonable time and before any disciplinary action may be imposed.

The purpose of the investigation is to seek out the facts in a particular situation and to ascertain the truth. The investigation or inquiry may be conducted by a Department supervisor or Internal Affairs.

At the conclusion of an investigation/inquiry, the report will be reviewed by the accused employee's supervisors, who will attach their recommendations to the report. If a supervisor conducts the investigation, it is reviewed by the employee's supervisors, who attach their recommendations, and then is reviewed by Internal Affairs.

At the conclusion of the investigation and all appropriate reviews, the report will be forwarded to the Chief of Police who will take appropriate action, if any, or

If a formal complaint is sustained against an employee, the employee has the right to appeal that decision and/or the discipline imposed.

At the final conclusion of the complaint investigation or administrative inquiry, the complainant and the employee will be given written notification of the outcome. If the process is not complete within 90 days, a status notification will be sent to both the complainant and the employee.

If a complainant deliberately gives false information causing the Department to conduct an investigation, this information can be presented to the appropriate prosecutor under the appropriate Texas statutes.

INSTRUCTIONS

1. Complaints should be submitted in writing on one of the forms below with your signature affixed.
2. Use the Personnel Complaint Affidavit

3. Fill in each blank with the requested information. Blank pages may be inserted between the first page and the signature page if additional space is needed.
4. In the body of the affidavit, in a narrative form, give a concise statement of the nature of the complaint, including all relevant facts. The more information you can provide, the better it is for the investigator. If known, name the employee you are complaining against or give sufficient information to allow the Department to identify the employee. Please include your address and telephone number so the investigator can contact you.
5. After you have completed the narrative portion of the appropriate Personnel Complaint Affidavit, sign it as required.
6. The completed and signed affidavit may be filed by mail or in person with the employee's supervisor or Internal Affairs at the Argyle Police Department.
7. Mailing Address:

Chief William T. Tackett
Argyle Police Department
P.O. Box 609
Argyle TX 76226

PENAL CODE

Sec. 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; or
- (2) he makes a false sworn declaration under Chapter 132, Civil Practice and Remedies

Code.

(b) An offense under this section is a Class A misdemeanor.

Sec. 37.03. Aggravated Perjury. (a) A person commits an offense if he commits perjury as defined in Section 37.02. and the false statement:

- (1) is made during or in connection with an official proceeding; and
- (2) is material.

(b) An offense under this section is a felony of the third degree.

TEXAS GOVERNMENT CODE

Complaint Against Law Enforcement Officer or Firefighter

Sec. 614.022. Complaint to be in Writing and Signed by Complainant. To be considered by the head of a state agency or by the head of a fire or police department, the complaint must be: (1) in writing, and (2) signed by the person making the complaint.

Sec. 614.023. Copy of Complaint to be Given to Officer or Employee.

- (a) A copy of a signed complaint against a law enforcement officer, fire fighter, or police officer shall be given to the officer or employee within a reasonable time after the complaint is filed.
- (b) Disciplinary action may not be taken against the officer or employee unless a copy of the signed complaint is given to the officer or employee.

Acts 1993, 73rd Leg., ch/263. Sec.1, eff. 9-1-93

ARGYLE POLICE DEPARTMENT

PERSONNEL COMPLAINT

AFFIDAVIT

STATE OF _____

COUNTY OF _____

**Before me, the undersigned authority in and for the State of _____,
on this day personally appeared _____, who,
after being by me duly sworn, deposed and said:**

My name is _____. I am of sound mind, I am _____ years of age and my date of birth is ____/____/____, and competent to give this affidavit.

Affidavit of _____

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