

NO. _____

CITY OF UVALDE,
Plaintiff

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IN THE DISTRICT COURT

38th

V.

____ JUDICIAL DISTRICT

CHRISTINA MITCHELL,
Uvalde County District Attorney for the
38th Judicial District
In Her Official Capacity,
Defendant.

UVALDE COUNTY, TEXAS

**PLAINTIFF’S ORIGINAL PETITION FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the CITY OF UVALDE and files this Plaintiff’s Original Petition for Declaratory Judgment and Injunctive Relief involving CHRISTINA MITCHELL, District Attorney for the Uvalde County 38th Judicial District in her official capacity and would show unto the Court as follows:

I.
PARTIES

1. Plaintiff, CITY OF UVALDE (“Plaintiff” or “City”), is a governmental corporation and home rule city organized under the laws of the State of Texas and located in Uvalde County, Texas.

2. Defendant, CHRISTINA MITCHELL (“Defendant Mitchell” or “District Attorney”), sued in her official capacity only, is the District Attorney of the Uvalde County 38th Judicial District, Uvalde County, Texas.

Plaintiff City’s Original Petition

FILED
12/1/2022 11:16 AM
Christina Ovalle, District Clerk
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Uvalde County, TX

By Dominique Perez

II.
NO MONETARY RELIEF

3. Plaintiff is not seeking monetary relief or attorney's fees at this time.

III.
DISCOVERY LEVEL

4. Discovery is governed by Texas Rule of Civil Procedure 190.3 (Level 2).

IV.
VENUE

5. Venue of this lawsuit is proper in Uvalde County, Texas, pursuant to Section 15.002(a)(1) of the Texas Civil Practice & Remedies Code, in that Uvalde County is the County in which all or a substantial part of the events or omissions giving rise to this claim occurred.

V.
FACTS

6. This lawsuit arises from a shooting incident that occurred on May 24, 2022, at the Robb Elementary School ("Robb School Incident") located at 715 Old Carrizo Road in the City of Uvalde, Uvalde County, Texas, where 25 City-employed police officers responded.

7. After a shooting incident, City's policies require an Internal Affairs investigation be conducted into the incident as required by City Police Department Policies and Procedures. **Exhibit A (Policy 2.4, Internal Investigation Process)**. For this purpose, the City hired an independent investigator, Jesse Prado of JPPI Investigations, LLC, out of Austin, Texas ("Prado") to conduct the Internal Affairs investigation. The Internal Affairs investigation by Prado is ongoing, but it is significantly restricted by the scope of evidence available to Prado by Defendant. The only information Prado has access to at this time is from City witnesses, much of which was provided to the City subject to a non-disclosure agreement and criminal investigation privilege. Prado needs

access to additional investigative materials from other law enforcement agencies to review and provide an accurate and complete Internal Affairs investigation and report. There were over 300 law enforcement officers from approximately 23 different law enforcement agencies who responded to the Robb School Incident.¹ It is widely known that there is body cam video footage and written reports from law enforcement agencies other than the City's police department and includes crucial information related to the City officers' response to Robb Elementary. The Prado Internal Affairs investigation will evaluate the City officers' response to the Robb School incident, assess whether there were policy violations, and allow the City to determine whether disciplinary action is required. *See*, Tex. Gov't. Code Section 614.023. In order to comply with statutory requirements related to indefinite suspension or termination of a police officer under Section 614.023, complete information is required to establish "misconduct" if indefinite suspension or termination of an officer is determined. Without complete investigatory information, the City will be detrimentally affected in fulfilling the statutory requirements related to its own officers' conduct and fulfilling its own policies.

8. The District Attorney is currently conducting a criminal investigation of the Robb School Incident involving multiple law enforcement agencies; however, the investigation should not prohibit Defendant from providing the relevant information to the City's investigator while maintaining confidentiality of investigation materials.² The City agrees and understands the importance of the confidential nature of the investigative information being held by Defendant. At

¹ Texas House of Representatives Investigative Committee on the Robb Elementary Shooting, July 17, 2017.

² "As we have seen, law enforcement and public officials made statements early on to advise the public of the facts of this horrible event in Uvalde. The release of initial information, unfortunately, was based on an investigation which had only just begun. This led to misunderstandings and corrections that only added to the pain and suffering of the victims, families, and our community." <https://www.ksat.com/news/local/2022/07/15/my-goal-is-to-secure-justice-ualde-county-district-attorney-says-school-shooting-investigation-could-result-in-criminal-charges/> (last visited 11.23.2022)

this time, there have been no charges and the investigation is ongoing. As the City's agent, Prado will maintain a non-disclosure and confidentiality agreement as he has with other information to conduct the City's Internal Affairs investigation.³ However, despite the City's efforts to cooperate and obtain information from other law enforcement agencies from the Defendant, these efforts have been unsuccessful. At a meeting to cooperatively obtain the relevant information, the Defendant represented to City's representatives that the investigation would be completed by the end of November 2022. Many other law enforcement agencies, including the Texas Department of Public Safety, already have access to the same investigation information requested by the City and have been able to conduct their own internal review. In addition, the press has access to information not available to the City based on recent press reports. See fn.2. Defendant is sued in her official investigative capacity and is not entitled to absolute or prosecutorial immunity. The status of issues involving the information requested by the City is only at the investigatory, not prosecutorial, stage. *See, Buckley v. Fitzsimmons*, 509 U.S. 259, 269-270 (1993); *see also, Burge v. Par. of St. Tammany*, 187 F.3d 452, 466-67 (5th Cir. 1999).

9. The City would be harmed if its Internal Affairs investigation cannot be completed within a reasonable amount of time. In particular, the City will be harmed by not adhering to its own policies if it does not have the complete information related to the Robb School Incident, including information from all law enforcement agencies to evaluate its own officers' conduct. Without the requested relief, the City does not know when the Defendant will provide access to information from the other law enforcement agencies to complete its Internal Affairs investigation.

³ Prado has entered into an NDA and Confidentiality agreement for access to Texas DPS videos of City police officer interviews.

VI.
DECLARATORY JUDGMENT

10. Pursuant to Chapter 37.003 of the Texas Civil Practices and Remedies Code, Plaintiff City seeks a judicial declaration as it relates to the City's enforcement and compliance with Texas Government Code Section 614.023, its policies and procedures, and ability to comply with the restriction on disclosure of public information under §552.108 of the Texas Government Code pertaining to ongoing criminal investigations related to the Robb School Incident.

11. The City requests the Court declare the City's right to conduct an Internal Affairs investigation with Defendant's investigative information and documents as long as the District Attorney's criminal investigation is not compromised, and the District Attorney's investigation matters remain confidential. The City, therefore, requests declaratory relief to compel the release of all relevant investigation matters to Prado, the City's Internal Affairs Investigator, with restrictions on use of investigative records and materials to maintain strict confidentiality of the District Attorney's criminal investigation. The City requests the Court declare that the City and the City's Internal Affairs investigator will be subject to a Confidentiality and Non-Disclosure Agreement for such records and materials.

VII.
INJUNCTIVE RELIEF

12. The City must comply with Texas Government Code Section 614.023 and its own policies and procedures, which it currently cannot do due to the lack of information from other law enforcement agencies involving its own officers' response to the Robb School Incident.

13. The City has a probable right to the relief sought because its independent investigator, Prado, cannot complete an Internal Affairs investigation without sufficient information to establish evidence

about the actions of its officers in response to the Robb School Incident to meet the requirements of Section 614.023.

14. The injury is probable, imminent, and irreparable because to the City because it has waited for months to conduct its independent Internal Affairs investigation, it will be a detriment to the City and its citizens without compliance with state and its own laws, and it is unknown how long Defendant will take to complete her own investigation. No other relief can remedy this situation and the City's need for investigation information.

15. Additional relief in the form of a temporary and permanent injunction to compel Defendant to produce investigation information is necessary and proper pursuant to Texas Civil Practice and Remedies Code Section 37.011 because this relief is ancillary to the declaratory relief sought. Without the injunction compelling Defendant to provide investigative information to Prado, there is no other relief or remedy available to ensure the City's compliance with statutory and City policy requirements without the City's independent investigator's opportunity to review or evaluate such information.

IV. **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff City respectfully pray that the Defendant be cited to appear herein; Plaintiff be awarded a judgment for all relief sought herein; and the Court enter a declaratory judgment and injunctive relief as follows:

a. A declaratory judgment that Plaintiff City, through its independent Internal Affairs investigator, Jesse Prado, be permitted to receive all relevant law enforcement investigation records and materials, including but not limited to witness statements, videos and recordings from law enforcement agencies related to the Robb School Incident on May 24, 2022 from the District

Attorney to conduct and complete its Internal Affairs investigation of City officers relating to the subject incident. Further, declaratory judgment that the requested investigation materials are subject to strict confidentiality and non-disclosure of law enforcement investigation records and materials in compliance with the restrictions on confidentiality and disclosure of public information under §552.108 of the Texas Government Code pertaining to ongoing criminal investigations, including a separate non-disclosure agreement, if necessary.

b. Injunctive relief compelling Defendant to provide all relevant law enforcement investigation records and materials, including but not limited to witness statements, videos and recordings from all law enforcement agencies related to the Robb School Incident on May 24, 2022, to the City to conduct and complete its Internal Affairs investigation of City officers relating to the Robb School Incident.

c. In the alternative, the City requests an injunction compelling the following information and records from Defendant:

1) Videos – all body cam video footage and photographs from all law enforcement agencies that went into the building.

- Border Patrol – tactical
- Border Patrol
- DPS
- County Sheriff deputies
- Constables
- School Resource Officers

2) Video – full video of the Robb School hallway camera (including if the FBI was able to recover what was lost)

3) Video – all surveillance videos from the school

4) Video/ Audio statements obtained by investigators (Rangers) from agencies that went into the building

- Border Patrol Tactical
- Border Patrol
- SROs
- County Sheriff deputies
- DPS – including Texas Rangers and DPS officers
- County Sheriff's Officers
- Constables

5) Video / audio / written statements of any employee of the school and employees of the funeral home.

6) Video/photographs/diagrams – of the crime scene after – looking for the positioning of the shooter

7) DPS Reports including timelines.

8) Any written reports from officers that went into the building and all DPS investigator reports.

And any other relief that Plaintiff may be entitled to, at law and equity, as may show itself justly entitled.

SIGNED this 1st day of December, 2022.

Respectfully submitted,

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UVALDE POLICE DEPARTMENT

Policy 2.4 Internal Investigation Process

Effective Date: 12/18/2013

Replaces: 1994 Policy Manual

Approved:


Max Westbrook - Chief of Police

Reference: TBP 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, and 2.10.

I. POLICY

The Uvalde Police Department's image and reputation depends on the personal integrity and ethical conduct of all departmental employees. To a large degree, the public image of the department is determined by a professional response to allegations of misconduct against its employees. The department must competently and impartially investigate all allegations of misconduct by employees and complaints bearing on the department's response to community needs. The Uvalde Police Department recognizes that its personnel are often subject to intense pressures in the discharge of their duties. The employee must remain neutral under circumstances that are likely to generate tension, excitement, and emotion. In these situations, actions and events frequently result in misunderstanding and confusion. It is to the advantage of all employees to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved in light of the complicated pressures of law enforcement work.

II. PURPOSE

To describe procedures for making complaints against department personnel, for investigating complaints, and to list and define the dispositions of complaints.

III. PROCEDURES – GENERAL (TBP: 2.04)

A. Receipt of complaints

The Uvalde Police Department encourages any person to bring forward grievances regarding misconduct by employees. Department members shall receive all complaints courteously and shall handle them efficiently. All officers are obligated to explain complaint procedures to anyone who inquires.

B. Responsibilities of supervisors

1. First-line supervisors are primarily responsible for enforcing conformance with departmental standards and orders.
2. First-line supervisors shall know the officers in their charge by closely observing their conduct and appearance.

3. First-line supervisors shall be alert to behavioral changes or problems in their subordinates and, if necessary, document these changes and confer with higher authorities. The first-line supervisor shall assess the behavior, and take or recommend appropriate action.
4. The supervisor shall recommend and, if appropriate, help conduct extra training for officers not performing according to established standards.
5. The first-line supervisor shall employ counseling techniques sanctioned by the department. Counseling is used to adjust and correct minor, infrequent errors or instances of poor performance and to ascertain the nature of any professional or personal problems that bear on performance.
 - a. The supervisor shall document all instances of counseling.

C. How to make a complaint

A copy of "How to make a complaint" will be posted in the public area of the department, provided to media representatives, and may be given to any person requesting information on how to make a complaint.

D. Responsibility for handling complaints

All complaints alleging a violation of the law or policy will be investigated. Complaints regarding law-enforcement operations will usually be handled through the chain of command, beginning with the first-line supervisor. Complaints involving how law-enforcement service is provided or a failure to provide service or improper attitudes or behavior may be investigated by an assigned supervisor or by the Chief of Police. Depending on the nature of the complaint, the Chief of Police may request another agency or DPS to undertake the investigation. (TBP: 2.06)

E. Complaint-handling procedures

1. All complaints, regardless of nature, can be filed in person, by mail, or by phone at any time. As part of the follow-up investigation, persons making complaints by mail or phone normally shall be interviewed and a written, signed complaint prepared. A signed letter of complaint will be accepted as a signed complaint without requiring any specific form. Anonymous complaints shall be followed up to the extent possible. In case of an anonymous complaint, the officer or other person who receives the anonymous complaint shall reduce the complaint to writing in a memorandum with as much information as possible and forward the report to the Chief of Police.
2. Every effort shall be made to facilitate the convenient, courteous, and prompt receipt and processing of any person's complaint. An employee of the department, who interferes with, discourages, or delays the making of complaints shall be subject to disciplinary action.

3. Normally, a person with a complaint shall be referred to a supervisor or the Chief of Police who shall assist the individual in recording pertinent information. If initially reported to a supervisor, the first-line supervisor shall conduct a preliminary investigation. The Chief of Police may, if appropriate, conduct a preliminary investigation. The preliminary investigation consists of questioning the officer, complainants, or witnesses, and securing evidence.

Upon completion of the preliminary investigation, the following documents shall be prepared and forwarded through the chain of command:

- a. a report of the alleged violation;
 - b. any documents and evidence pertinent to the investigation;
 - c. recommendations for further investigation or other disposition.
4. If the first-line supervisor or other investigators determine that the complainant is apparently under the influence of an intoxicant or drug, or appears to have a mental disorder, or displays any other trait or condition bearing on his or her credibility, the supervisor or investigator shall note these conditions. Any visible marks or injuries relative to the allegation shall be noted and photographed.
 5. Prisoners or arrestees also may make complaints. Circumstances may require a department representative meet the complainant at a jail or prison for an interview. If appropriate, the representative will have photographs taken of prisoners' injuries.
 6. An employee who receives a complaint through U.S. mail shall place the correspondence and envelope in a sealed envelope and forward it to the Chief of Police, who shall determine investigative responsibility.
 7. Complaints received by telephone, by dispatchers or other employees shall be courteously and promptly referred to a supervisor or the Chief of Police. The dispatcher or employee shall record the name and telephone number of the complainant and state that the Chief of Police or, if unavailable, the supervisor will call back as soon as practical.
 8. The above procedure may also be used when department employees desire to enter a complaint against any other employee governed by this order.
 9. In every case, the Chief of Police will be notified of any complaint as soon as possible by the supervisor receiving the complaint. Complaints received overnight will be brought to the Chief's attention the next workday. Complaints alleging a violation of the law or any serious violation should be reported immediately regardless of the time of day. (TBP: 2.07)

F. Disposition of complaints generally

The Chief of Police or his designee shall:

1. Notify the complainant, in writing, as soon as practical, that the department acknowledges receipt of the complaint, that it is under investigation and that the complainant will be advised of the outcome.
2. Enter the complaint into the complaint log, assign a complaint number, and have the complaint investigated. Minor complaints alleging rudeness, minor policy violations and performance issues may be assigned to a supervisor for investigation and resolution. Allegations of a violation of the law or serious policy violations will be investigated by the Chief of Police, an investigator assigned by the Chief of Police, or an outside agency or other city department as determined by the Chief of Police.
3. Maintain complaint files separate from personnel files.
4. Take disciplinary action following the investigation, if appropriate.

G. Disposition of a serious complaint

1. Allegations of misconduct that might result in discharge, suspension, demotion, or criminal charges being sought are serious complaints. The term "serious complaint," in this manual, is synonymous with "internal investigation." Internal investigations examine alleged brutality, gross excesses of legal authority, criminal violations, or allegations involving supervisory or multiple personnel.
2. If a criminal offense is alleged, two separate investigations shall be conducted, a criminal investigation as well as an administrative or internal investigation. The criminal investigation examines compliance with the criminal law while the internal investigation determines compliance with policy and procedure. The Chief of Police will assign these investigations as required.
3. In cases of serious complaints the Chief of Police shall:
 - a. Determine if the officer complained of should remain on-duty, be assigned to non-contact assignments, or put on administrative leave until completion of the investigations;
 - b. Determine and assign responsibility for the investigations;
 - c. Notify the employee in writing that they are the subject of an internal investigation, unless doing so would interfere with the proper investigation of the allegation;

- d. Cause the complaint to be registered and assigned an investigation number in the complaint log.
 - e. Maintain close liaison with the district attorney in investigating alleged criminal conduct. Where liability is at issue, the Chief of Police shall similarly maintain contact with the city attorney or legal counsel.
4. All investigations will be completed within 90 days to include the taking of disciplinary action when necessary. If additional time is necessary to conclude the investigation, a request for extension will be presented to the Chief of Police in writing providing justification for the extension. If approved by the Chief of Police, a specific number of days will be approved and a copy will be provided to the involved officer and the original placed in the case file. (TBP: 2.05)
 5. Should the allegation be sustained, the Chief of Police or designee shall provide the officer a signed copy of the complaint prior to any disciplinary action being taken. (TGC: 614.023)
 6. Upon completion of any investigation, the Chief of Police will notify the complainant in writing, of the results of the investigation and any action taken. (TBP: 2.10)
 7. Whether sustained or not, the officer shall also receive notice of the results of the investigation, though they shall not have a right to access the investigative files.

IV. INVESTIGATIVE PROCEDURES

- A. Two types of investigations may take place: administrative or criminal. Different rules govern interviews of employees in each case.
- B. Assistance of legal counsel
 1. Employees may be permitted to have an attorney, supervisor, or other representative with them in the room during an interview regarding allegations of misconduct. If the representative's inability to attend the interview substantially delays the investigation, the employee may be ordered to conduct the interview without a representative.
 2. The employee's representative is limited to acting as an observer at the interview, except that where the interview focuses on, or leads to, evidence of criminality, the attorney may advise and confer with the employee during the interview.
- C. All Interviews

1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint and provided a copy of the complaint.
2. All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
3. During interviews conducted by the department, there will be one employee designated as the primary interviewer.
4. The complete interview shall be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed.
5. The employee shall be provided with the name, rank and command of all persons present during the questioning.

D. Interviews for criminal investigative purposes

1. If the Chief of Police believes that criminal prosecutions are possible and wishes to use statements against the employee in a criminal proceeding, or at least wishes to maintain the option of their use, the person carrying out the interview shall:
 - a. Give the employee the rights as specified in Texas Code of Criminal Procedure Article 38.22.
 - b. In addition to the rights set forth in state law, the Chief of Police, or his designee shall advise the employee that if he asserts his right not to answer questions, no adverse administrative action will be taken based upon the refusal.
 - c. If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceeding.

E. Interview for administrative purposes

1. If the Chief of Police wishes to compel an employee to answer questions directly related to his or her official duties, the Chief of Police or another interviewer shall advise the employee that:
 - a. That this is an internal administrative investigation only.
 - b. They are required to answer all questions specifically related to the performance of their duties and their fitness for office.
 - c. All questions specifically related to employment must be fully and truthfully answered.

- d. If they refuse to answer any questions, they may be subject to discipline up to and including dismissal from the Uvalde Police Department.
 - e. Any answers given are to be used solely for internal administrative purposes and may not be used in any subsequent criminal prosecution should such occur.
 - f. The purpose of the interview is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension, or dismissal.
2. In an interview for administrative purposes, no Miranda rights are required.

V. INVESTIGATIVE TOOLS AND RESOURCES

In addition to interviews of the employee and witnesses, the Chief of Police may require other activities in support of a complaint investigation or internal investigation, including:

A. Medical and laboratory examination

1. The Chief of Police or the officer in authority may, based on reasonable suspicion or their observations, require a department employee to submit to a test for alcohol or drug use while on-duty. The results may be used in a disciplinary hearing. Refusal to submit to the examination will be grounds for disciplinary action and may result in the employee's dismissal.
 - a. If the employee is believed to be under the influence of alcohol, a PBT or Preliminary Breath Test shall be administered. The Chief of Police or the officer in authority shall witness the test and generate a memorandum as to the results.
2. If the employee has a reading of .02 or higher or there is other competent evidence of impaired abilities to perform duties, the officer shall be relieved of duty by the Chief of Police or officer in authority.
3. If the employee is believed to be under the influence of drugs, he may be compelled to submit to a blood or urine test. The test shall be administered under medical supervision where hygienic safeguards are met. The sample shall be handled using the same safeguards as evidence in a criminal investigation.
4. If the test shows positive results, or there is other competent evidence of impaired ability to perform duties, the employee shall be relieved of duty as soon as possible by the Chief of Police or other officers in authority.

5. If an employee refuses to submit to a test, (alcohol or drugs) then the Chief of Police or other officer in authority shall immediately relieve the employee from duty (on paid leave) for failure to cooperate in an administrative investigation.
6. Property assigned to the employee but belonging to the department is subject to inspection where the department has a reasonable suspicion that evidence of work-related misconduct may be found therein. Department property includes files, storage lockers, desks, and vehicles.

B. Photograph and lineup identification procedures

1. Officers may be required to stand in a lineup for viewing for the purpose of identifying an employee accused of misconduct. Refusal to stand in a properly conducted lineup is grounds for disciplinary action and may result in dismissal even if criminal prosecution is not anticipated.
2. A book of photos of department employees may be maintained for the purpose of identification of an employee accused of misconduct.

C. Financial disclosure statements

An employee may be compelled to make financial disclosure statements when directly and narrowly related to allegations of misconduct involving any unlawful financial gain.

D. Polygraph

1. All personnel shall be required to submit to a polygraph if ordered to do so by the Chief of Police.
2. The Police Chief may order employees to take a polygraph when:
 - a. The complainant has taken and passed a polygraph concerning the incident. (Unless the complainant is willing to submit to testing but the polygraph operator determines the complainant is not a fit subject due to mental condition, age, or medication).
 - b. Regardless if the complainant takes a polygraph or is even known, but the complaint is of such a nature to bring severe discredit and suspicion on the department and cannot be satisfactorily resolved in any other manner.
3. The results of the polygraph examination shall not be used as the sole basis for disciplinary action against any employee.
4. Any polygraph examination given under the provisions of this order shall be administered by a private contractor licensed to administer polygraph examinations in the State of Texas or must be a licensed examiner from

another law-enforcement agency. No employee shall administer an examination to another employee.

5. Refusal to submit to a polygraph examination or to answer all questions pertaining to the charges in the polygraph examination, or deliberately impeding the administration of the polygraph shall be grounds for disciplinary action and may result in dismissal from the department.

VI. ADJUDICATION OF COMPLAINTS

A. The Chief of Police will classify completed internal affairs investigations as:

1. Unfounded - no truth to allegations.
2. Exonerated - allegations true, but are the result of adherence to departmental policy or procedure. Exonerated complaints will be reviewed by the Chief of Police for policy issues.
3. Not sustained - unable to verify the truth of the matters under investigation.
4. Sustained - allegations are true. Complaints will not be classified as sustained unless based on a finding of facts determined during the investigation. (TBP: 2.04)

B. Completed investigations classified as unfounded, exonerated, not sustained, or policy failure will be maintained in internal affairs files in the Administrative Lieutenant's office. Sustained complaints shall be filed in the individual employee's department personnel file with a copy in the internal affairs files.

C. Disciplinary action taken shall be determined by the seriousness of the violation or the extent of injury to the victim and the officer's prior disciplinary history. It shall be commensurate with the circumstances surrounding the incident and in consideration of the employee's service record and prior sustained complaints.

D. Disciplinary records (TBP: 2.09)

1. The department shall maintain a log of all complaints.
2. The complaints and internal investigative files shall be kept in a secure area and shall be maintained in accordance with state law and city policy.
3. The Chief of Police shall direct a periodic audit of complaints to ascertain a need for training or a revision of policy.
4. The Chief of Police shall publish an annual or other periodic summary of complaints that shall be made available to the public.
5. The report will be produced by the Administrative Lieutenant or their designee.

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