

CITY OF ABERNATHY

POLICE DEPARTMENT COMPLAINT PROCEDURES

The information provided is intended to assist the public with the approved policies and procedures when filing complaints against an employee of the Abernathy Police Department. (Section 614.022, Government Code)

The Abernathy Police Department encourages citizens to bring forward legitimate grievances regarding misconduct by employees. The image of the Department depends on the personal integrity and discipline of all Departmental employees.

The Department will competently and professionally investigate all allegations of misfeasance, malfeasance, nonfeasance by employees and complaints bearing on the Department's response to community needs. This includes all alleged or suspected violations of the Code of Conduct, Department General Orders, the City of Abernathy Personnel Rules and Regulations, the Ordinances of the City of Abernathy, or the laws of the State of Texas or the United States.

TIME LIMIT ON ACCEPTING COMPLAINTS

Complaints will not be accepted more than **thirty days** after the alleged incident except when the complaint involves a criminal violation; in which case, the criminal statute of limitations will prevail or when the complainant can show good cause for not filing the complaint within the time limits. This determination shall be made by the Chief of Police.

REQUIREMENTS FOR MAKING FORMAL COMPLAINTS

Personnel complaints shall comply with Section 614.022, Government Code, as interpreted by the City Attorney's office. All complaints should be filed with the Chief of Police except when a complaint is being made against the Chief of Police, in which case, it shall be filed with the appropriate city official.

FORMAL COMPLAINTS

Persons wishing to make formal complaints must do so by **submitting a written statement** of the complaint accompanied by their signature. A notarized affidavit is preferred but not required. *(A signed letter of complaint may be sufficient after verification that it is not fictitious or signed with a fictitious name. This determination shall be made by the Chief of Police.)*

INFORMAL COMPLAINTS

Informal complaints include all non-written complaints. If a citizen can furnish sufficient evidence that a violation of law or Departmental policy has occurred, the complaint, at the discretion of the Chief of Police, may be investigated.

ANONYMOUS COMPLAINTS

Anonymous complaints shall be investigated only at the specific direction of the Chief of Police.

CONFIDENTIALITY OF INVESTIGATIONS

All complaint investigations shall be considered **confidential** and, except as provided below, no portion of the investigations may be reproduced without the authority of the Chief of Police.

Any complainant, upon written request, shall be provided with a copy of his own work product.

Investigative reports will not be released to any complainant except when required by law.

DEFINITIONS

Level I Complaints.

1. **Crime.** Involvement in criminal conduct, such as bribery, theft, perjury, etc.
2. **Excessive Force.** Use or threatened use of force against a person was unreasonable and unnecessary under the circumstances.
3. **Arrest/Detention.** Restraint of a person's liberty occurred without probable cause, reasonable suspicion or other legally valid reasons.
4. **Entry.** Entry into a building or other property was improper and/or that excessive damage was caused to the property to gain entry.
5. **Search.** Search of a person or property was illegal, improper or unjustified.
6. **Harassment.** Taking, failing to take, or the method of police action was predicated upon factors that were irrelevant, such as race, attire, sex, age, etc.
7. **Serious Rule Infractions.** Intoxication on duty, sleeping on duty, neglect or dereliction of duty, or false statements.

Level II Complaints

1. **Demeanor.** Employee's manner, gestures, language or other actions were offensive or inappropriate or gave the appearance of a conflict of interest or misuse of influence.
2. **Minor Rule Infraction.** Faulty driving or failure to comply with accepted or established policies and procedures.

TYPES OF DISCIPLINARY ACTIONS

All disciplinary action will be based on substantial evidence. (Refer to *Edmonds v. McNeal*, 596 S.W. 2d 403.)

Level II Infractions

Level II infractions that are classified as sustained following an administrative investigation shall be subject to the following non-disciplinary actions:

1. Verbal Warning;
2. Written Warning;
3. Training.

Level I Infractions

Level I infractions which are classified as sustained are subject to the following types of disciplinary action which can only be assessed by the Chief of Police subject to appeal and approval by the City Council.

1. Written Reprimand;
2. Suspension;
3. Demotion;
4. Termination.

GOVERNMENT CODE
CHAPTER 614. PEACE OFFICERS AND FIRE FIGHTERS

§ 614.021. APPLICABILITY OF SUBCHAPTER.

This subchapter applies only to a complaint against:

- (1) a law enforcement officer of the State of Texas, including an officer of the Department of Public Safety or of the Texas Alcoholic Beverage Commission;
- (2) a fire fighter who is not covered by a civil service statute; or
- (3) a police officer who is not covered by a civil service statute.

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.

§ 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.

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.

§ 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.

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.

**ABERNATHY POLICE DEPARTMENT
COMPLAINT FORM**

Date: _____

Complainant's full name: _____

Date of Birth: _____

Complainant's address: _____

Complainant's Home # _____ Work # _____

Location where alleged incident occurred: _____

Date and time of alleged incident: _____

Is this complaint based on Racial, Ethnic or National Origin Profiling? _____

Name or other identifying information of Abernathy Officer (s) who this complaint is

Being filed: _____

Name, address and phone # of any witnesses:

NATURE OF COMPLAINT

Clearly indicate the nature of your complaint.

Nature of Complaint – continued

Signature of Complainant

Sworn to and subscribed before me this _____ day of _____,
20_____

Notary Public in and for Hale County, Texas

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) 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) makes a false unsworn 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 Sec. 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

ABERNATHY POLICE DEPARTMENT COMPLAINT FORM SUPPLEMENT

Signature of Complaint

Sworn to and subscribed before me this _____ day of _____, 20_____

Witness

Notary Public in and for Hale County, TX