

## LA MESA POLICE DEPARTMENT RULES AND REGULATIONS

### MANUAL OF RULES AND REGULATIONS

#### SECTION 5.0 DISCIPLINARY POLICY

Revised September 2012 / February 2013 / March 2014/ July 2020

Walt Vasquez, Chief of Police

#### 5.00 OBJECTIVES OF DISCIPLINE

The primary objective of discipline is to gain the willing compliance of all employees to adhere to the Rules and Regulations, Department Instructions, and lawful orders in order for the police department to most effectively serve its mission. Discipline should have a positive meaning, that of training and corrective instruction, which develops self control, personal discipline, orderliness, and efficiency, and effective police services. When other methods fail to achieve conformity with accepted standards of conduct, disciplinary action, that is punitive in nature, must follow to preserve the integrity of the organization, uphold morale, and maintain the effective operations of the police department.

Disciplinary action should promote efficient and professional public service while maintaining harmonious and safe working conditions.

Every attempt should be made to apply disciplinary action in a reasonable, consistent, and equitable standard to all employees in the Department.

This section describes guidelines applicable to official Department personnel investigations (formal Personnel Complaints, otherwise known as Internal Affairs/Citizen complaints; and Internal Administrative Investigations) and complies with provisions of Chapter 9.7, Division 4, Title 1, Section 3300 et. seq. of the Government Code (Public Safety Officers Procedural Bill of Rights). These provisions prescribe various rights of sworn employees under investigation, with respect to the time of interrogation, nature of the investigation, length of the interrogating session, and representation and specify other rights of such employees with regard to discrimination and discipline.

Per section 3303(i) of the California Government Code; whenever a supervisor's interrogation of an officer focuses on matters that are likely to result in punitive action in a formal investigation, that officer, at his or her request, shall have the right to be represented by a representative of his or her choice. This policy shall not apply to any questioning of an officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with a supervisor.

#### 5.01 DISCIPLINARY POLICY

The continued employment of every employee of the Department shall be based on reasonable standards of personal conduct, fitness, and job performance. Failure to meet any required standard may be cause for disciplinary action.

Severability - If, for any reason, any section, subsection, sentence, clause, or portion of this Department Policy or any additions or amendments thereto, or the application thereof to any person, are held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this policy or its applications to other persons.

This policy is for internal use only and does not expand the civil or criminal liability of personnel in any way. It shall not be construed as the creation of a higher standard of safety or care in the evidentiary sense, with respect to third party claims. Violations of Department policies, except those of a criminal nature, can only form the basis of complaint and/or disciplinary action by this Department and then only in an administrative setting.

## 5.02 DISCIPLINARY STANDARD

- A. The "just cause" for such disciplinary action shall include, but is not limited to, incompetence, commission of a criminal offense, inefficiency, dishonesty, neglect of duty, misconduct, insubordination, conduct which tends to reflect unfavorably upon the employee, Department, or City, or failure to observe Departmental or City policies, procedures, rules and/or regulations. If the disciplinary action is the result of conduct of an employee while "off-duty", there must be a relationship between the act of misconduct and the employee's ability to perform the duties assigned.
- B. The following list of causes for disciplinary action constitutes a portion of the Department's disciplinary standards. This list is not intended to cover every possible type of offense or infraction and does not preclude the recommendation of disciplinary action for specific action or inaction detrimental to efficient Department service.

### Attendance:

1. Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.
2. Unexcused or unauthorized absence on scheduled days of work.
3. Failure to report to work or place of assignment at time specified without reasonable excuse.

### Conduct:

4. Unlawful fighting, threatening, or attempting to inflict unlawful bodily injury on another.

5. Engaging in potentially dangerous "horseplay" resulting in employee injury or property damage, or the reasonable possibility thereof.
6. Unauthorized possession of, loss of, or damage to City property or the property of others or endangering same through unreasonable carelessness or maliciousness.
7. Failure, on the part of any employee, to report activities on the part of any other employee, where such activities constitute misconduct.

Discrimination:

8. Discrimination against an employee or applicant because of race, color, creed, religion, sex, national origin, ancestry, marital status, physical handicap, sexual orientation or medical condition.

Intoxicants:

9. Reporting for work or being at work following the use of intoxicants, where such use may impair the employee's ability to perform assigned duties or when the evidence of the use of intoxicants causes an immediate lowering of esteem or appearance of effectiveness to the public; unauthorized possession of, use, or attempting to bring intoxicants to work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance.
10. Reporting for work or being at work following the use of "controlled substances" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties; unauthorized possession, use, or attempting to bring any "controlled substance" or other illegal drug to work.

Performance:

11. The wrongful or unlawful exercise of authority on the part of any employee for malicious purposes, personal gain, and/or willful deceit.
12. Unauthorized sleeping on duty.

13. Careless workmanship resulting in the spoilage or waste of materials or work of an unacceptable nature, as applicable to the nature of work assigned.
14. Refusal, failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or instructions of supervisors without reasonable and bona fide excuse.
15. Concealing or attempting to conceal defective work; removing or destroying same without permission.
16. Disobedience, insubordination, or deliberate refusal to carry out any proper order from any supervisor or employee.
17. Disparaging remarks to the extent that such conduct disrupts the efficiency of the department or subverts the good order, efficiency and discipline of the department and would tend to discredit any member thereof.
18. Wrongfully loaning, selling, giving away, or misappropriating any City property for the employee's own personal use.
19. The unauthorized use of any badge, uniform, or City I.D. card for the purpose of personal gain.
20. The receipt or acceptance of a reward, fee, or gift from any person for service, incident to the performance of the employee's duties, for the purpose of personal gain.
21. Any knowing or negligent violation of the provisions of the Department Instructions or Department Rules and Regulations. (Employees shall familiarize themselves with the above.)
22. Attempted or actual theft of City property, City services, or the property of others.
23. Criminal, dishonest, infamous, or notoriously disgraceful conduct, adversely affecting the employee/employer relationship (on or off duty).
24. Failure to take reasonable action while on-duty and when required by law, statute, resolution, or approved Department practices or procedures.

25. Substantiated, active, continuing association with or membership in, "organized crime," with the knowledge thereof except as specifically directed by the Police Department.
26. Offer or acceptance of a bribe or gratuity.
27. Misappropriation or misuse of public funds.
28. Exceeding lawful peace officer powers by unreasonable, unlawful, or excessive conduct.
29. Unlawful gambling or unlawful betting on or off City premises, or at any work site.
30. Substantiated, active, continued association on a personal rather than official basis with a person or person(s) who commit(s) serious violations of state or federal laws, where the employee has knowledge of such criminal activities, except as specifically directed by the Police Department.
31. Engaging in political activities prohibited by law during assigned hours of employment.
32. Any other on-duty or off-duty conduct which is unbecoming, or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the department or its members.

False Information/ Untruthfulness:

33. Failure to disclose or misrepresenting material facts, or making any intentionally false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
34. The intentional falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
35. Failure to participate in, or knowingly giving false or misleading statements, or intentionally misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department -related business.

36. Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

**Any sustained finding in any of the above categories related to dishonesty during the course of an internal investigation, shall be grounds for a termination recommendation.**

#### 5.03 AUTHORITY TO DISCIPLINE

Whenever it is deemed necessary for reason of any violation of the rules and regulations, or for the preservation of good order, efficiency and discipline, all ranking officers may suspend from duty (without loss of pay), pending formal charges, any subordinate member of the Department. In every case of the suspension, the officer so ordering shall, as soon as practical submit a written report to the Chief of Police, stating the name of the accused, the particular charge, together with all other pertinent information.

#### 5.04 COMPLAINT PROCEDURE

##### A. Personnel Complaint - General

1. A personnel complaint is defined as an allegation of misconduct or improper job performance by an employee, received from any source.
2. A personnel complaint shall be prepared when the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
3. If the allegation is determined to be a complaint against a City or department policy or procedure and the matter cannot be explained to the reporting person's satisfaction with a formal complaint being desired, a formal Personnel Complaint shall be initiated by completing a complaint form noting the policy and/or procedures that are alleged to have been violated.
4. When a personnel complaint is received from a person who is intoxicated, the complaint information should be taken and the complainant should be interviewed again when they are no longer impaired.
5. When a personnel complaint is received from a person who did not consider a "reporting party." Upon receipt of such a complaint, an investigating officer shall contact the person(s) affected by the alleged misconduct or improper job performance for the taking of a complaint.

That person(s) shall be considered the "complaining party" for the purposes of Penal Code Section 832.7. If a complaint investigation is not desired, the complaint will be "unfounded" unless sufficient information exists to warrant an investigation by the Department, as determined by the Division Commander involved.

B. Internal Administrative Investigation

1. An Internal Administrative Investigation is a formal administrative investigation into alleged misconduct or improper job performance initiated by Department personnel.
2. Upon receipt of information from any source that if true, would constitute a violation of Department rules, regulations, or standard practices, the Division Commander may authorize an Internal Administrative Investigation into the allegations.

Internal Administrative Investigations and Personnel Complaint investigations shall follow the same procedures as outlined in this section.

5.05 PERSONNEL COMPLAINT RECEIPT

- A. It is to the benefit of all employees as well as to the Department, that every formal complaint from a private person not resolved in any manner, be documented. All complaints by private persons are essential and beneficial management information. Minor complaints or inquiries regarding police conduct as well as complaints where the private person does not desire a formal complaint, may be exempted from this requirement, at the discretion of the Watch Commander or field supervisor. Discretion should be used when the complaint is obviously unfounded on its face.
- B. All complaints from private persons will be taken in a courteous manner. One intent of the complaint process is to determine what types of complaints are received by the Department and what dispositions are made of them.
- C. The Department complaint form will be utilized on all documented formal complaints. This form will provide accurate control and accounting of the number, type and general cause of complaints, pointing out needs for additional training or public information programs.
- D. Any employee of the Department who is contacted by a private person who wishes to file a formal complaint against an employee should, when possible, refer the complainant to the Watch Commander who will take the information. If the Watch Commander is unavailable, a sworn supervisor shall be contacted and a complaint taken. The following steps should be

taken and the conversation tape recorded (audio and/or video) as soon as possible. This will promote a thorough, complete and accurate investigation.

- a. Ask the complainant for reliable photographic identification and note the identification used on the complaint form.
- b. Complete the complaint form, with the exception of the "Brief Description." (attached at end of document)
- c. The complainant should be asked to write a brief description of their complaint on the form, attaching additional sheets if necessary. Provide the complainant with a copy of the completed form, including their statement, to meet the requirement of Penal Code Section 832.7(b).
- d. If the complainant cannot or will not provide a written description of their complaint, continue the tape recording of the interview of the complainant and advise them that a transcript of the interview, or copy of the tape recording of the interview, will be mailed to them if they so desire.
- e. Once the complaint form has been completed, a detailed recorded interview of the complainant should be conducted as soon as practical. If other activity requires a delay in conducting the interview, the complainant should be contacted as soon as practical and a recorded interview conducted. A complainant who refuses to be recorded is never a reason not to take a formal complaint.
- f. If a formal complaint is received by telephone, identifying and contact information for the complainant should be obtained. The complainant should then be asked to come to the Police Department as soon as practical to complete a complaint form and be interviewed.
- g. If it is impractical for the complainant to come to the Police Department within a reasonable time period, the person taking the complaint should meet with the complainant at his/her home, place of business, etc., to complete the complaint form and record an interview, as provided for in sections a. - h.
- h. In rare instances it may be necessary to take a complaint and/or conduct a recorded interview by telephone. In such cases the complainant should be contacted in person as soon as practical to verify their identity and complaint. At that time the requirements of sections a. - h. should be reviewed and completed, as applicable.
- i. In instances where a complaint is received by mail the complainant

should be contacted as soon as practical to arrange for the completion of the requirements described in sections a. - h., as applicable. In these cases the complainant's written description of the complaint may be used to meet the requirements of Penal Code Section 832.7(b).

1. Once the initial formal complaint has been taken, the original complaint and accompanying information will be forwarded to the Division Commander concerned. The Division Commander will forward these to the Chief's office for a control number. A copy will be retained in the Chief's Office pending completion of the investigation. The original complaint and accompanying information will be returned to the Division Commander. Copies of the complaint and accompanying information will be forwarded to the following unless it would compromise the investigation:
  - a) The employee's immediate supervisor
  - b) The employee.

#### 5.06 INVESTIGATION OF PERSONNEL COMPLAINTS

A. The basic objective of a personnel complaint investigation or an Internal Administrative Investigation is the factual determination of whether or not a violation of law, policy, rule, or standard of conduct occurred. It is of the utmost importance to conduct a thorough and complete investigation that is fair and impartial, to prove the truth of the matter in order to provide:

1. A response to citizen grievances.
2. Protection of the public interest
3. Protection of the integrity and reputation of the Department and City.
4. Protection of the employee against false accusations.
5. Redress for undesirable conduct.

#### B. Complaint Investigation

The primary responsibility for investigating complaints lies with the Division Commander most concerned with the incident. The Division Commander may direct a subordinate staff member from within that Division to investigate the complaint.

A specially assigned investigator within the Department will assume responsibility for and investigation only when directed to do so by the Chief of Police. This will normally

be:

1. When personnel of more than one division are involved.
2. If it would be impractical for the concerned Division Commander to have witnesses contacted or the investigation is too complex and time consuming.
3. When the matter is such that security is desirable until the investigation is completed.
4. When the suspected behavior constitutes serious criminal conduct.

Personnel conducting such investigations shall comply with provisions of Sections 3300 et. seq. of the California Government Code as applicable to the specific investigation being conducted.

During the course of a formal Personnel Complaint or Internal Administrative investigation, the complainant and concerned employee shall be interviewed, as well as any pertinent witnesses. Interviews of the complainant and the subject employee shall be recorded. In instances where recording is not practical (such as broken equipment), a witness shall be present with the interviewer. All other witnesses should be recorded. A written statement from the complainant and/or concerned employee may only be

substituted for a recorded interview with the approval of the Division Commander responsible for the investigation.

When a subject employee or witness employee is interviewed, the following warning should be given: "This is a confidential investigation. I am giving you a direct order not to discuss the nature or details of this investigation with any other La Mesa Police employee, absent competent authority, as doing so could seriously jeopardize the outcome of the investigation. Failure to comply with this order will be considered insubordination and could be grounds for administrative disciplinary action against you, up to and including termination. Do you understand?"

The purpose of this warning is to maintain the integrity of the investigation. The order prevents either the purposeful or inadvertent tampering of potential or actual witness employees.

Normally, complaint investigations should be conducted and completed within 15 days. There may be occasions when an investigation might extend beyond 15 days. When an investigation is likely to go beyond 30 days, it must be approved by the Chief of Police.

C. The investigation conducted shall include the following information when applicable:

1. Identification of all involved parties and/or employees. Identification of

the complaining party should be verified by an accepted form of ID and noted on the complaint form.

- 2.A recorded statement from the complaining party and subject employee(s).
- 3.Names, addresses, and telephone numbers of all witnesses and a summary of their statements.
- 4.Visual examination for trauma; medical treatment for actual or alleged injury.
- 5.Photographs.
- 6.Inspection of object alleged to have caused injury (photographed and retained if possible).
- 7.Sobriety examinations and recording of objective symptoms.

#### D. Completion of Complaints

- 1.All formal Personnel Complaints and Internal Administrative Investigations are not considered completed until one of the following occurs:
  - a.The Division Commander determines the personnel complaint or internal administrative investigation to be "Unfounded" or "Not Sustained".
  - b.When all appeals available to the subject employee through the City have been exhausted.
  - c.At any point during the investigation before all appeals with the City have been exhausted, or if additional information is learned at a later time after a complaint has been deemed "Unfounded" or "Not Sustained", the Chief of Police or Division Commander can direct additional investigation action as is deemed reasonable.

#### E. Complaint Investigation Report Format

- 1."Summary" - A brief description of the incident and allegations that led to the complaint.
- 2."Allegations" - Describe the specific act(s) or omission(s) alleged that, if true, may constitute a violation(s) of Department Rules & Regulations or Department Instructions, including the specific section and provisions of

the Rules & Regulations and/or Department Instructions.

- 3."Investigation" - A description of the steps taken in the investigation of the complaint which relates the information that was obtained. The investigation should include:

A list of all witnesses to include their name, title, address and telephone number.

A review of the key portions of the complainant's statement as they relate to the allegation(s) and other information gained in the investigation

Any witness statements

A review of the employee's statement as it relates to the allegation(s) and other information gained in the investigation

A statement regarding the collection and preservation of evidence (if any)

- 4."Findings" - A conclusion stating the facts that were established, or could not be established, and the basis for these findings.

#### 5.07 COMPLAINT FORM ROUTING (ORIGINAL)

- 1.Complaint taken and forwarded to Division Commander.
- 2.Division Commander obtains an internal affairs number and provides a copy of the initial complaint to the Chief of Police.
- 3.Division Commander assigns investigation to staff member.
- 4.Complaint returned to Division Commander upon completion of investigation.
- 5.Division Commander determines the disposition or may return the complaint to the investigator for additional investigation if needed. After the investigation is complete, the Division Commander recommends the proposed disciplinary action (if applicable) and forwards the complaint to the Chief of Police.
- 6.The Chief of Police may approve the proposed discipline or request that it be amended or modified.
- 7.Complaint returned to Division Commander who notifies employee of

disposition and proposed action (if applicable). If discipline is recommended, the employee is also advised of the right to respond, orally or in writing, to the Chief.

8. Complaint returned to Chief of Police for final approval of findings and disciplinary action. Discipline is imposed (if applicable).
9. All complaints, regardless of disposition, should have each page dated and initialed by the concerned employee and recorded in the annual complaint file in the Chief's office.
10. A copy of all sustained complaints will be filed in the concerned employee's file maintained in the Chief's office.

## 5.08 COMPLAINT DISPOSITIONS

The terms used for complaint dispositions are as follows:

1. Unfounded: the alleged act did not occur - an example might be a complaint of rudeness during a citizen contact however an audio recording of the contact disproves the complaint.
2. Exonerated: the alleged act occurred but was justified, legal and proper - an example might be a complaint that an officer did not stop and assist after a citizen requested assistance, when in fact the officer did not stop because he/she was en route to an emergency call.
3. Not Sustained: the investigation produced insufficient information to prove clearly or disprove the allegations - an example might be a complaint of rudeness with no evidence or witnesses other than the complainant and concerned employee.
4. Sustained: the accused employee committed all or part of the alleged acts of misconduct.

## 5.09. NOTIFICATION OF COMPLAINANTS

1. In accordance with the provisions of Penal Code Section 832.7, it shall be the policy of this agency to notify the complaining party that the complaint has been thoroughly investigated.
2. In addition, complaining parties will be told that each allegation is examined on its merits in an objective manner and appropriate departmental action is taken.
3. The notification of the complaining party will be made with a letter from

the Chief of Police.

## 5.10 DISCIPLINARY PROCEDURES

### A. Types of Disciplinary Action

1. Written Reprimand (Any writing that states a violation of Rules & Regulations or Department Instructions was committed and indicates future disciplinary action may be taken for the same or similar types of violation. Written reprimands are commonly in the form of an Infraction Notice or Letter of Censure. An “educational reminder”, as described in *Otto v. LAUSD*, should not specify a violation or address the possibility of future disciplinary action and should be placed in the employee’s working file only until the time of their next annual performance evaluation.)
2. Punitive Transfer
3. Suspension
4. Reduction in Salary
5. Demotion
6. Dismissal

- B. An Infraction Notice, using the approved Department form, may be prepared by supervisory or ranking personnel and delivered to the Department member involved.

A letter of censure shall be prepared by the Division Commander or his designee and include the following information:

1. The charges brought against the employee listing all applicable rules or procedure violations.
2. A description of the acts or omissions and past performances that have led to the proposed imposition of discipline.
3. A statement indicating that additional misconduct of the same or similar nature may result in some type of disciplinary action, up to and including termination.
4. A statement notifying the employee of the right to an administrative appeal per Government Code Section 3304(b) and the request for appeal made to the Chief of Police within seven days.

5.A statement to be signed by the employee that he/she, without agreeing to the content, has received and reviewed the document.

Delivery of the document should be witnessed and signed upon receipt by the employee.

C.The following procedures apply when the proposed discipline is a punitive transfer, suspension, reduction in salary, demotion, or dismissal. These procedures are often referred to as "Skelly" rights.

A written notice of charges must be prepared by the Division Commander under whose authority the complaint was investigated.

This notice must include:

- 1.A statement indicating the proposed discipline or that the charges may result in some type of disciplinary action, up to and including termination.
- 2.The charges brought against the employee listing all applicable rules or procedure violations.
- 3.A description of the acts or omissions and past performances that have led to the proposed imposition of discipline.
- 4.A copy of the materials upon which the action based must be attached to the notice. The materials should include all information necessary to enable the employee to prepare a response as well as all information on which the Department needs to rely.
- 5.The notice must be given to the employee prior to imposing discipline. The employee must then be allowed a reasonable period in which to prepare a response. In most cases, seven working days should be sufficient time; however, extensions may be allowed.
- 6.The employee must be given the opportunity to respond either orally, in writing, or both.
- 7.A statement to be signed by the employee that he/she, without agreeing to the content, has received and reviewed the document.

Delivery of the document should be witnessed and signed upon receipt by the employee.

The employee has no right to an evidentiary hearing at this stage of the disciplinary process. There is no requirement for the employee to be allowed to present evidence, call witnesses, or question witnesses against him or her.

If the employee chooses to respond orally ("Skelly" conference), the employee has a right to be represented and may choose to appear with or without a representative. The limited nature of this response allows the Chief of Police, or his designee, to initiate further investigation if the employee's version of the facts or allegations raises doubt as to the accuracy of the information leading to the recommendation of disciplinary action.

D. The Chief of Police will review the employee's response and shall render his decision in writing to the employee concerned within seven days. If discipline is imposed, the written response shall include:

1. The charges brought against the employee listing all applicable rules or procedure violations.
2. A description of the acts or omissions and past performances that have led to the possible imposition of discipline.
3. A statement stating the discipline imposed and that additional misconduct of a similar nature may result in further disciplinary action, up to and including termination.
4. A statement notifying the employee of his/her right to appeal and how that appeal should be made.

#### 5.11 GROUNDS FOR APPEAL OF IMPOSED DISCIPLINARY ACTION

A. Where the imposed disciplinary action amounts to "punitive action", as that term is defined in Government Code Section 3303, the affected employee shall have the right to make an administrative appeal pursuant to Government Code Section 3304 (b).

Generally in such appeals, the grounds shall be one or more of the following:

1. The procedural requirements have not been met.
2. That the suspension, reduction in salary, demotion, punitive transfer or dismissal was made on the basis of race, marital status, religion, age, sex, creed, national origin, ancestry, physical handicap or medical condition.
3. That there has been an abuse of discretion by the final authority approving the discipline.

4. That the action taken or recommended was not in accord with the facts alleged.

Where the imposed disciplinary action consists of a punitive transfer, suspension, reduction in salary, demotion, or dismissal, a letter shall be delivered to the employee stating the discipline to be imposed and informing the employee of the right to appeal. If the suspension is for three (3) days or less, the appeal shall be made to the Human Resources Department within ten (10) business days of the effective date of action. An employee may request a Personnel Appeals Board hearing for a demotion or a suspension exceeding three (3) days which shall be made in writing to the City Clerk's office within ten (10) business days (Municipal Code 3.32.050). An employee may request a Personnel Appeals Board hearing for a dismissal which shall be in writing to the City Clerk's office within fifteen (15) days of dismissal (Municipal Code 3.32.130).

Each party has the right to:

1. Be represented by legal counsel of his/her choice.
2. Call witnesses.
3. Cross examine witnesses.
4. That the action taken or recommended was not in accord with the facts alleged.

The personnel appeals board, within thirty days, after the formal review, shall announce their findings and decision. The findings and decision shall be final.

#### 5.12 APPEALS PROCEDURE - MINOR DISCIPLINARY ACTION

Minor "Disciplinary Actions" consists of imposed disciplinary action limited to a Written Reprimand.

In such disciplinary actions, the final authority responsible for the action is the Chief of Police.

Employees affected by a minor disciplinary action may elect to appeal the imposed action by notifying the Chief of Police in writing within seven days from the date upon which the discipline is imposed. The employee shall thereafter be notified of the date and time when he/she is to be present in the office of the Chief of Police, at which time the appeal will be considered.

The employee undertaking such an appeal may present his/her objection(s) to the imposed discipline to the Chief of Police in oral or written format, or both. The employee shall provide the appropriate grounds for the appeal and other relevant evidence applicable to the particular case.

The purpose of this appeal procedure is to allow the employee an opportunity to summarize his/her objections to the imposed discipline, for the consideration of the Chief of Police.

Following presentation of the employee's appeal, the Chief of Police shall, in a timely manner, notify the employee of his decision in the manner which shall either, affirm, amend, modify, or reverse the disciplinary action.

#### 5.13 RETENTION OF CITIZEN COMPLAINT AND DEPARTMENTAL INVESTIGATIONS

Records of citizen complaints and departmental investigations which resulted in a "Sustained" disposition shall be retained in an employee's personnel jacket according to the schedule provided in this section. The retention period shall be based on the date the action is imposed. In the event a disciplinary action is appealed, the retention period shall be based on the date of the final disposition of the appeal. Records which are removed from an employee's personnel jacket in accordance with the retention schedule shall be retained in an administrative file in the Office of the Chief of Police and will not be considered for purposes of promotion, transfer and special assignments.

<u>Type of Disciplinary Action</u>	<u>Retention Period</u>
Infraction Notice	One year
Letter of Censure	Three years
Punitive Transfer	Five years
Suspension	Five years
Reduction in Pay	Five years
Demotion	Permanently
Termination	Permanently

Records of citizen complaints and departmental investigations which resulted in a disposition of "Not Sustained", "Exonerated" or "Unfounded" shall be retained in an administrative file in the Office of the Chief of Police. Said records of citizen complaints and departmental investigations will be destroyed after five years.

#### 5.14 POLICE OFFICER TRAINEE -ACADEMY DISCIPLINE

In the event a police officer trainee's academy file is given to the La Mesa Police Department, the file will be reviewed by the training sergeant for any disciplinary

documentation. Upon completion of the police academy, all disciplinary documentation will immediately be transferred to the officer's personnel file and retained according to the retention schedule listed in section 5.13.

**CITIZEN COMPLAINT FORM ROUTING ON THE NEXT PAGE**

LA MESA POLICE DEPARTMENT  
Citizen Complaint Form Routing

Investigator

Assigned for Investigation to: \_\_\_\_\_ By: \_\_\_\_\_ Date \_\_\_\_\_

Investigator

Date Completed \_\_\_\_\_ Date Returned to Division Commander \_\_\_\_\_

Signature \_\_\_\_\_

Division Commander

Disposition

- Unfounded      Comments \_\_\_\_\_  
 Exonerated      \_\_\_\_\_  
 Not Sustained      \_\_\_\_\_  
 Sustained      \_\_\_\_\_  
 Returned to investigator for additional follow-up Date \_\_\_\_\_

Proposed Disciplinary Action \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Chief of Police

- Approved      Comments \_\_\_\_\_  
 Amend or Modify \_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Division Commander

Employee given written statement of disposition and proposed action  Yes  No

By \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Employee advised of right to response to Chief of Police  Yes  No

Employee elects to respond  Written  Oral  None Desired

Hearing Date \_\_\_\_\_ Time \_\_\_\_\_ Location \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Chief of Police

Employee Response  Yes  No      Date \_\_\_\_\_ Time \_\_\_\_\_

Written  Oral  No Response

Findings Modified  Yes  No      Action Modified  Yes  No

Action Implemented      Date \_\_\_\_\_

Comments \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Copies to:  Jacket  Officer(s)  Other