

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## OCTOBER ROLL CALL TRAINING

### High Risk Critical Task / Complaints and Employee Misconduct

Pursuant to NRS 81-1414.14, law enforcement agencies shall have a policy regarding accepting and investigating complaints of law enforcement officer misconduct. It is imperative that the Agency operates in a degree of transparency and is responsive to complaints alleging employee misconduct and external concerns regarding the operation of the Agency. Members of the public shall be provided with a reasonable avenue for any redress of grievances they may have with the service received by Agency employees or the conduct of the Agency. Complaints alleging employee or Agency misconduct are accepted for the following principal reasons:

- A. To ensure that complaints alleging employee or Agency misconduct are accepted and investigated in a consistent and reasonable manner to uncover the truth of the allegations,
- B. To identify areas of misunderstanding by the complaining citizen,
- C. To identify employees whose conduct and/or performance is in need of correction and supervisory intervention,
- D. To protect Agency employees and the Agency from erroneous complaints, and
- E. To identify Agency policies, training and/or practices in need of reevaluation, clarification and/or correction.

All complaints of employee misconduct will be accepted from all persons. Employees shall assist individuals who wish to lodge a complaint against any member of this Agency by explaining the complaint procedure or contacting an on-duty supervisor if necessary. Upon receiving a complaint alleging the commission of a crime or serious violation of Sheriff's Office policy or procedure, the receiving supervisor shall conduct a preliminary investigation to determine the nature of the allegation, collect any physical evidence that is relevant to the investigation and in jeopardy of being lost, secure any crime scene if appropriate, and immediately notify the Sheriff via the chain of command.

The Sheriff should request an outside law enforcement agency to investigate allegations of criminal misconduct involving Sheriff's Office employees whenever possible. In addition to the criminal investigation, the Sheriff or his/her designee shall assign a supervisor or command officer to conduct a separate administrative investigation into all allegations of serious employee misconduct to determine whether any policies were violated and if disciplinary action is appropriate. The timing of the administrative investigation in relation to the criminal investigation varies based on the circumstances of the case.

As part of the administrative investigation, employees may be required or "compelled" to answer questions. Refusal to answer questions during administrative investigations may result in disciplinary action up to and including termination. However, government employees have the same constitutional protections as any other citizens, therefore, compelled statements or evidence stemming from such statements obtained during administrative investigations cannot be used against the subject employee

in subsequent criminal proceedings. (*Garrity v. New Jersey*). Consequently, information or evidence obtained from compelled statements during the administrative investigation must not be shared with officers conducting the criminal investigation, as doing so could jeopardize subsequent criminal proceedings. On the other hand, information gathered during the criminal investigation may be shared with and used by officers conducting the administrative investigation.

### **Employee Responsibilities:**

**Scenario:** A supervisor receives a complaint about an officer sent from an anonymous email account. The complaint alleges that an unknown officer stopped a male who was walking through an apartment complex on a particular day and time and searched him without justification. The complainant alleged that the officer located a small bag of marijuana, which the officer seized. The complainant also alleged that the officer said he would not arrest the male if the male gave him \$50. He said the male gave the officer \$50 and he was allowed to leave. The supervisor replied to the complainant's email for more information, and the email showed an "undeliverable message" response.

**Question:** Because this is an anonymous complaint and it's unknown if the person complaining is a third party or the person who was stopped, should this complaint be investigated?

**Answer:** Yes. It is the policy of the Agency to accept and document all complaints of misconduct.

**Question:** Who should the supervisor notify of this complaint?

**Answer:** The supervisor should forward the complaint to the Sheriff or his/her designee via the chain of command.

**Question:** How should the investigation proceed?

**Answer:** There should be two separate investigations: a criminal investigation into the allegations of criminal conduct (preferably by an outside law enforcement agency) and an administrative investigation conducted by the Sheriff's Office regarding any policy or code of conduct violations.

**Question:** Can information obtained through the criminal investigation be shared with the officer(s) conducting the administrative investigation or vice versa?

**Answer:** Information obtained through the criminal investigation may be shared with the officer(s) conducting the administrative investigation. Conversely, compelled statements made on the part of the subject officer during the administrative investigation and any evidence derived from such statements shall not be shared with officers conducting the criminal investigation as doing so will jeopardize subsequent criminal proceedings.