

NOPD CONSENT DECREE MONITOR  
NEW ORLEANS, LOUISIANA



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March 18, 2016

File Number: 37PA-191555

**VIA ELECTRONIC MAIL** ([tafavorill@nola.gov](mailto:tafavorill@nola.gov))

Deputy Superintendent Timothy Averill  
Compliance Bureau, New Orleans Police Department  
714 Broad Street  
New Orleans, LA 70119

RE: Policy Approval

Dear Superintendent Averill:

This letter constitutes confirmation that the Office of Consent Decree Monitor ("OCDM") has reviewed and provided comments on policy Chapter 52.1.2, Misconduct Compliant Investigator Responsibilities. The OCDM has no objection to the policy as revised.

We believe that Chapter 52.1.2, Misconduct Compliant Investigator Responsibilities, incorporates all requirements of the Consent Decree and sets forth clear and appropriate rules to guide officer conduct. We will continue to assess the adequacy of this policy following its implementation. If we identify any concerns following implementation, we will present those concerns to you and the Department of Justice. Additionally, we note that, pursuant to the Consent Decree, NOPD has agreed to review and revise policies and procedures as necessary upon notice of a significant policy deficiency. We also note NOPD's obligation to review this policy after a year of implementation to ensure it "provides effective direction to NOPD personnel and remains consistent with the Agreement, best practices, and current law." Consent Decree at ¶ 18.

We appreciate your team's effort, cooperation, and responsiveness throughout this process.

Very truly yours,

David Douglass  
For SHEPPARD MULLIN RICHTER & HAMPTON LLP\*  
2099 PENNSYLVANIA AVE., N.W., SUITE 100  
WASHINGTON, DC 20006

CC: HONORABLE SUSIE MORAN (VIA ELECTRONIC MAIL)  
EMILY GUNSTON, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)



## NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

### CHAPTER: 52.1.2

## TITLE: MISCONDUCT COMPLAINT INVESTIGATOR RESPONSIBILITIES

**EFFECTIVE:**

**REVISED:**

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### PURPOSE

The purpose of this policy is to establish standards for Department members in the investigation of misconduct complaints. This policy supplements Chapter 52.1.1, "Complaint Investigation" and describes the specific responsibilities of misconduct investigators.

### POLICY STATEMENT

- Supervisors who are assigned to conduct a misconduct investigation of an accused employee shall conduct a thorough investigation and exhaust all leads. Misconduct investigations shall be as thorough as necessary to reach reliable and complete findings.

### DEFINITIONS:

Definitions relevant to this Chapter include:

**Classification date**—The date on which PIB determines the complaint will be investigated as a public complaint; internally generated complaint; minor infraction resolved through counseling or training; or No Formal Investigation Merited.

**Complaint Form**—The universal form that any person may use to file a complaint against a member of the New Orleans Police Department. Any person can file a complaint without filling out this form (e.g., a complaint may be communicated verbally or online), and a complaint shall not be disregarded if a person refuses to, or cannot, complete this form.

**Complaint Tracking Number (CTN)**—A unique number assigned by PIB Intake to each complaint received and entered on the Complaint Form and all documents associated with intake, classification, investigation and adjudication of the complaint. The CTN includes the year the complaint was filed followed by a four digit sequential number starting with 0001 for the first recorded allegation of the year, followed by an alpha character indicating the source of the complaint (i.e., P = public; R = rank). For example, 2014-0001P indicates the first complaint received in 2014 and it was filed by a member of the public.

**Exonerated**—The recommended disposition when an investigation determines by a preponderance of the evidence that the alleged conduct did occur but did not violate NOPD regulations, policies,

procedures, or training.

**No Formal Investigation Merited (NFIM)**—A complaint action in which the allegation, on its face, does not constitute a violation by an employee of any Departmental Rule, Policy, Procedure, verbal or written instruction, or criminal or civil law. NFIM will be used only for the following types of complaints:

- Complaints disputing traffic citations, except an allegation of misconduct contained in such complaints (e.g., racial profiling, illegal search, excessive force) will be classified and investigated according to its merits;
- Complaints alleging delayed police service (e.g., patrol response or detective follow-up) in which the preliminary investigation demonstrated that the delay was due to workload. However, if the preliminary investigation disclosed that misconduct such as negligence, rather than workload, caused the delay, the complaint will be classified according to its merits;
- Complaints regarding the conduct in a civil incident of an off-duty employee, unless the alleged conduct or its effects constitute misconduct or had a substantial nexus to the employee's employment; and
- Complaints in which the preliminary investigation demonstrated that the subject employee did not work for NOPD at the time of the incident or in which the identity of the subject employee cannot be determined despite the best efforts of the PIB investigator.

**Not sustained**— The recommended disposition when an investigation is unable to determine by a preponderance of the evidence whether the alleged misconduct occurred.

**Preponderance of the evidence**—Such evidence that when considered and compared with that opposed to it has more convincing force and produces in one's mind the belief that what is sought to be proven is more likely true than not true.

**Sustained**— The recommended disposition when an investigation determines by a preponderance of the evidence that the alleged misconduct did occur.

**Unfounded**— The recommended disposition when an investigation determines by a preponderance of the evidence that the alleged misconduct did not occur or did not involve the accused member.

## INVESTIGATOR RESPONSIBILITIES

2. Upon being assigned a formal disciplinary investigation, the investigator shall:
  - (a) Conduct a complete investigation and thoroughly exhaust all leads;
  - (b) Interview and digitally record the accused employee's statement;
  - (c) Interview and digitally record the statements of the complainant, any principal, and every known witness, both for and against the accused employee. (For non-department employees, a written statement, signed and dated by the individual giving the statement, may be substituted for an audio taped or digitally recorded statement. However, only audio taped or digitally recorded statements shall be taken from department employees.)
  - (d) Collect evidence and property, when applicable, and maintain chain of custody records (evidence in criminal cases should be submitted to CE&P under the Complaint Tracking Number);
  - (e) Prepare and forward correspondence to the complainant, as specified in this Chapter;
  - (f) Address each section of the investigative report, documenting all facts;
  - (g) Reach a conclusion supported by the preponderance of the evidence and prepare a written recommendation;

- (h) Apply for an extension of the due date (within the first thirty (30) days of the investigation, i.e. within thirty days of the classification date) when necessary, and particularly when any complainant, witness, principal, or evidentiary material will not be available in time to complete the investigation by the investigator's assigned due date;
- (i) Provide a copy of the date-stamped extension request (if requested) to PIB within 48 hours of the date-stamp.
- (j) Prepare a Notice of Completed Investigation, i.e. "Notice to Accused Law Enforcement Officer Under Investigation of a Pre-Disciplinary Hearing or a Determination of an Unfounded or Not Sustained Complaint" (NOPD Form #308), and submit the form along with the investigative report;
- (k) Submit a complete, coherent investigative report to his/her immediate supervisor by the investigator's assigned due date. The date of the investigative report shall be the date the completed report is submitted to the immediate supervisor for approval and forwarding through the chain of command to the PIB Deputy Superintendent; and
- (l) Update the PIB Transmittal form.

### **ACCUSED EMPLOYEE'S STATEMENT**

3. During the formal investigation, the investigator shall obtain a digitally recorded statement from the accused employee in every case, using the statement format for "Administrative Investigation of a Commissioned and/or Civilian NOPD Member" (Form #196). The audio file shall be labeled with the PIB Complaint Tracking Number, date the statement is taken, the accused employees' name, and the name of the person(s) whose statement(s) is recorded. The file(s) shall be labeled as an exhibit and made a part of the investigative report. Digitally recorded statements shall be preserved.
4. In either an administrative or criminal investigation, an NOPD employee acting as a representative for an accused and/or observing the interview of an individual in connection with an investigation conducted by PIB into the alleged misconduct of NOPD personnel, shall be required to sign a Confidentiality Admonishment (NOPD Form 305) prior to the commencement of the interview. The form shall be supplied by the investigator.
5. At least five days before taking a statement from an accused employee, the investigator shall provide notification (Form #196) to the accused employee informing the employee of the:
  - (a) Allegation(s) against the employee;
  - (b) Employee's rights and responsibilities relative to the investigation; and
  - (c) Date, time, and location the employee is to appear for the statement
6. The notification shall be signed by the employee indicating receipt of the original form. A copy of the signed notification shall be labeled as an exhibit and made a part of the investigative report.
7. If, when ordered, an employee refuses to make an administrative statement as an accused employee or witness, the investigator shall digitally record the refusal unless extenuating circumstances prevent the recording, in which case the extenuating circumstances shall be documented in an Interoffice Correspondence (Form 105). The investigator shall immediately notify the accused employee's Deputy Superintendent and the PIB Deputy Superintendent, and submit a Complaint Form to PIB.
8. In an investigation that does not involve criminal allegations, the interview shall normally take place during the employee's tour of duty. The PIB Deputy Superintendent shall have the

authority to extend or change an employee's regular tour of duty hours if necessitated by the demands of the investigation. Should the interview time extend past the employee's tour of duty, for payroll purposes, the employee shall be listed as working in the payroll system. If the employee is suspended or on any other leave status, the employee may be ordered to appear at any given time at a designated location to give a statement.

9. In an interview lasting more than two hours, the investigator shall provide breaks for rest, personal needs and meals. No interview shall last more than eight hours in any twenty-four hour period, unless authorized in writing by the Superintendent.
10. Prior to the taking of any statement, the investigator shall begin the accused employee's administrative and/or criminal statement with a full reading to and acknowledgment by the commissioned employee of "Rights of Law Enforcement Officers While Under Investigation" and the Constitutional rights relative to the giving of a criminal statement in a criminal investigation.
11. If an employee waives his criminal rights at any time during the interview process, the investigator shall stop the interview and further question the employee as to his/her understanding of the rights. The investigator shall immediately request that the employee sign a "Rights of Arrestee" form, announcing to the audio tape recorder that the employee has signed the "Rights of Arrestee" form number [state number]. The form shall be labeled and listed as an exhibit.
12. When an employee's counsel and/or representative is present during the rendering of a statement in an administrative investigation, he/she shall be allowed to advise the employee and make statements on the record regarding any question. The counsel may also provide names of witness(es), as per "The Rights of Law Enforcement Officers While Under Investigation," on behalf of the employee.

### **TRANSCRIPTION OF STATEMENTS**

13. The initial recording of the complainant's allegations, if taken by PIB Intake personnel, shall be transcribed only if no subsequent statement is taken from the complainant by the investigator and the investigation culminates with a recommended disposition of SUSTAINED.
14. If an investigation results in a recommended disposition of sustained by the investigator, each recorded statement shall be transcribed by the investigator. Each page of the transcript shall be initialed by the accused employee, and the last page shall be signed and dated by the accused employee. Each transcript shall be labeled as an exhibit and made part of the investigative report.
15. A transcript of an audio taped or digitally recorded statement is not required in an investigation which has the recommended disposition of NOT SUSTAINED, UNFOUNDED, or EXONERATED.
16. Any reviewing authority, including the PIB Deputy Superintendent, may return an investigation for a transcript in any case where a transcript is deemed necessary for the review process.
17. The Deputy Superintendent of PIB may grant written approval for a statement not to be transcribed in an investigation that includes recommendation for sustained violations. To ensure the accuracy of investigative conclusions, the PIB Deputy Superintendent shall be

responsible for conducting a random check of completed investigative cases in which no transcripts are provided.

### **CORRESPONDENCE TO A NON-MEMBER COMPLAINANT**

18. The investigator shall forward correspondence to the non-member complainant, via departmental letterhead, on the following timetable:
  - (a) Immediately upon being assigned the formal investigation, a letter introducing him/herself to the complainant as the investigator of the complaint (Form #197), and
  - (b) Every 45 days from the date the investigator's commanding officer received the complaint, updating the status of the investigation. This shall continue until the investigation is submitted for approval (Form #198).

Immediately upon completion of his or her investigation, the investigator shall forward to PIB, through the chain of command, a completed letter to the complainant indicating the outcome of the investigation, i.e. the investigator's recommended disposition, along with the completed investigative report. PIB shall send the letter to the complainant upon review and approval.

All correspondence shall be included as part of the investigative case file.

19. If the investigator is unable to contact the complainant via the telephone number(s) or at the address provided in the Complaint Form, he/she shall mail to the complainant's recorded address a certified letter advising the complainant of the need to immediately contact the investigator. The letter shall advise the complainant that the investigation may be severely impeded without the complainant's assistance if the complainant fails to respond. The investigator shall utilize the wording of the letter shown in Form #199. This correspondence and certification of delivery/receipt shall be included as part of the investigative case file. Even if the complainant cannot be contacted, the investigation shall continue as necessary to resolve the original allegation based on the evidence and investigatory procedures available.

### **THE INVESTIGATION**

20. Misconduct investigations shall be as thorough as necessary to reach reliable and complete findings. The misconduct complaint investigator shall interview each complainant in person, and this interview shall be recorded in its entirety, absent specific, documented objection by the complainant. If extenuating circumstances require that the interview of the complainant not be conducted in person, the investigator shall document those extenuating circumstances in the investigative file.
21. All witnesses, including members witnessing or involved in an incident that becomes the subject of a misconduct complaint, shall be interviewed. If due to extenuating circumstances (e.g., unavailability or uncooperativeness of a witness) a witness cannot be interviewed, or if a witness refuses to be interviewed, those facts shall be documented.
22. Where the alleged misconduct is particularly serious or interviews of the subject member(s) or other witnesses may be necessary to sufficiently investigate the allegation, the investigator shall conduct an in-person interview. The interview shall be recorded in its entirety, absent, in the case of non-member witnesses, specific documented objection.
23. Each member, witness, and complainant shall be interviewed separately. A New Orleans Police Department Authorized Interpreter not involved in the underlying complaint will be



used when taking statements or conducting interviews of any Vietnamese or Spanish speaking LEP complainant or witness.

24. The misconduct investigator shall seek to identify all persons at the scene giving rise to a misconduct allegation, especially all NOPD members. The investigator shall note in the investigative report the identities of all members and other witnesses who were on the scene, but note if they assert that they did not witness or were not involved in the incident. The investigator shall conduct further investigation of any such assertions that appear unsupported by the evidence.
25. The investigator shall search for, and obtain copies of, relevant video evidence, including body-worn camera footage, mobile-video unit footage, surveillance video of the incident, the accused, witnesses, or other relevant recordings (such as video evidence of the accused, the complainant, or involved witnesses). Copies of the video shall be included as exhibits and labeled with the PIB Complaint Tracking Number. If the investigator is unable to find video evidence, he or she shall provide an explanation for the unavailability of evidence, such as "Officer's body worn camera not activated."
26. In each investigation, the investigator shall consider all relevant evidence, including circumstantial, direct, and physical evidence, as appropriate, and make credibility determinations based upon that evidence. There will be no automatic preference for a member's statement over a non-member's statement, nor will the investigator disregard a witnesses' statement merely because the witness has a connection to the complainant or because of their prior criminal history. The investigator shall make efforts to resolve material inconsistencies between witness statements. Material inconsistencies shall be directly noted in the investigative report along with the rational used by the investigator to resolve the inconsistencies
27. If an investigator becomes aware at any time, including during an interview or the taking of a statement, of criminal conduct on the part of any member or employee, the investigator shall immediately suspend the investigation and notify the PIB commander.

### **CREDIBILITY ASSESSMENTS**

28. Investigators shall not give automatic preference to a member's statement over a complainant's statement or vice-versa.
29. In all investigations, investigators shall may make credibility assessments when reviewing the statements/allegations of complainants, accused employees, and witnesses in accordance with the nature of the statements/allegations and the issues of the case. Investigators shall use a preponderance of the evidence standard when making credibility determinations.
30. Factors to consider when making a credibility assessment include, but are not limited to:
  - (a) The person's opportunity to see or hear the things that the person claims to have seen or heard;
  - (b) Any motive the person has to lie;
  - (c) Any interest the person may have in the outcome of the case;
  - (d) Any bias of the person;
  - (e) The person's memory and ability to recall events;
  - (f) Information pertaining to the person's truthfulness or lack thereof;

- (g) Any inconsistencies in the person's statement and whether they are supported or contradicted by evidence;
  - (h) Information, including criminal or disciplinary history, that suggests a habit, routine, or pattern of relevant behavior. Information about a person's character or reputation alone, without more, shall not be considered.
31. Investigators must recognize that statements may contain some inconsistencies and contradictions. When inconsistencies occur, investigating supervisors should not automatically disbelieve the person who made the statement. The investigator should consider whether the inconsistencies relate to significant or insignificant matters and whether the inconsistency is reasonable in light of the circumstances.
  32. The Public Integrity Bureau shall review past case reports and specific allegations and dispositions to determine whether there is commonality or a pattern similar to the allegations in the case at hand, considering the time between complaints and their similarity to the subject case. When an member's disciplinary history includes Unfounded, Exonerated, or Not Sustained cases, these cases cannot be used in a credibility determination unless there is a clear pattern or relevancy to the subject case.
  33. The Public Integrity Bureau may contact the accused person's supervisor and ask that supervisor to provide his or her observations and assessment of the accused employee.

#### REPORT FORMAT

34. The investigator shall utilize an NOPD Form 105 (Interoffice Correspondence) to document the formal investigation. The heading shall be as follows:
 

TO: Superintendent of Police  
 FROM: [Investigator's rank, name, and place of assignment]  
 SUBJECT: PIB CTN # [Complaint Tracking Number]  
           [Name of accused employee(s), ID #, rank, and place of assignment]  
 DATE: [Date investigator submits report to supervisor]
35. The investigator shall address each of the following areas using the following clearly labeled and defined headings and subheadings:
  - (a) **INTRODUCTION:** This section shall identify the investigator by rank, name, and assignment. It shall recount by whom and when the investigator was assigned the investigation. The introduction shall include the following subheadings:
    1. **BRIEF SYNOPSIS:** Give a brief synopsis of the allegation(s) including what, when, where, how, and by whom the alleged violation(s) was committed, and any other pertinent information that the investigator deems necessary.
    2. **ALLEGATIONS:** The synopsis of the allegations shall also set forth the alleged violations. Identify and list every possible violation contained within the complaint or identified during the supervisor's initial inquiry into the complaint or through his/her own observation. Cite the numbers and title of the Rule and Chapter, order, etc., that may have been violated. If an allegation involves a criminal law, the state or municipal number and



title shall be included. If multiple alleged violations, each shall be listed in numerical order by rule number, then by paragraph number. Each allegation shall be numbered as V1, V2, V3. The only allegation(s) which shall be listed under the individual accused employee is(are) the allegation(s) made against that specific employee.

(b) **INVESTIGATION:** The investigator shall document a detailed account of every aspect of the investigation, including an individual summary of each interview, whether recorded or written. If the interview is recorded, the transcription of this interview (if one is required) shall be labeled and listed as an exhibit. If the investigator obtained a written statement from any party, the written statement shall be labeled and listed as an exhibit.

1. **WITNESSES:** List every witness, including members, and identify whether each witness was contacted or provided a written statement, and whether any interviews were recorded. If a witness was not contacted or an interview was not recorded, give an explanation. For example: "Joe Doe could not be reached despite numerous attempts; he provided a non-working telephone number and refused to provide an address."

2. **CREDIBILITY ASSESSMENT:** Provide a relevant assessment of the complainant(s) and witness(es) (see Paragraphs 28 through 33 above).

(c) **SUMMARY:** This section shall summarize the important aspects of the investigation and why the investigator arrived at the conclusion of culpability or innocence on each allegation. The Summary Section shall contain only **information** already fully documented in the Investigation Section, and shall not introduce any new information.

(d) **RECOMMENDATION(S):** Each alleged violation shall be addressed individually, with a recommended disposition on each rule allegedly violated, and a complete justification of the recommended disposition of each rule appearing in the original Misconduct Investigation Initiation Form. Any additional rules (not alleged in the original form) determined to **have** been violated shall be listed after the original violation(s) under the sub-heading "Additional Sustained Violations." Any additional accused employees and their sustained violations shall be listed under the subheading "Additional Accused and Sustained Violations."

The investigator must also assess whether: (i) the accused's conduct was in compliance with training and legal standards; (ii) the incident indicates a need for additional training, counseling, or other non-disciplinary corrective measures; and (iii) the incident suggests that NOPD should revise its policies, strategies, tactics, or training.

(e) **EXHIBITS:** The final page of the investigative report shall be the Exhibit page. Each exhibit (Misconduct Investigation Initiation form, recording, written order, evidence receipt, photograph, etc.) shall be assigned a letter. A list of exhibits that contains more than **twenty-six** (26) items shall utilize a double-alphabet designation (AA-ZZ). Each exhibit shall carry a corresponding label on the exhibit itself. Each exhibit listed shall include a description of the exhibit, the number of pages in the exhibit, and whether the document is an original or a photocopy; as indicated below:

**EXHIBITS [EXAMPLE]**

Exhibit A      PIB Transmittal page, original

Exhibit B      Formal Disciplinary Investigation initiation form, original

- Exhibit C Transcribed statement of [XXX], 5 pages, original
- Exhibit D Incident report, Item # X-XXX-XX, 4 pages, photocopy
- Exhibit E TRIP record for [XXX]. Dated XXX, one page, original
- Exhibit F Photographs, taken by Crime Lab, Item # X-XXX-XX, four

- 36. Any extension request submitted to Civil Service, along with any response, shall be included as an exhibit to the investigative report.
- 37. Each page shall be initialed by the investigator.
- 38. The investigator's signature, with the rank and title typed below the signature, shall conclude the report. The investigator's initials shall also be hand written on each page of the investigation in the bottom right hand corner.
- 39. The report shall conclude with the following format for each person in the investigator's chain of command, up to and including the Superintendent of Police:

CONCUR /DO NOT CONCUR

\_\_\_\_\_ Date: \_\_\_\_\_  
 [rank and name of person in chain of command]  
 [title and/or place of assignment]

Each signature shall be dated.

- 40. The complete investigative report shall be assembled unstapled, with all exhibits in order. Each page of the report shall be numbered. The entire package shall be placed into a large manila envelope, labeled with the PIB Complaint Tracking Number on the front, and shall be forwarded to PIB through the investigator's chain of command for approval.
- 41. Every exhibit page shall have the Complaint Tracking Number at the top left and the page number on the top right. For example, the top of the fifth page of a 10-page exhibit shall note: **PIB CTN #: 201X-XXXX** **Page 5 of 10.**

**INVESTIGATOR’S FINDINGS AND RECOMMENDED DISPOSITION(S)**

- 42. In each investigation, the fact that a complainant plead guilty or was found guilty of an offense shall not be the deciding factor as to whether an accused employee committed the alleged misconduct, nor shall it justify discontinuing the investigation.
- 43. The misconduct investigator shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:
  - (a) Unfounded
  - (b) Exonerated
  - (c) Not sustained
  - (d) Sustained
- 44. When the recommended disposition is UNFOUNDED, EXONERATED, or NOT SUSTAINED, the investigator shall cite only the number and title of the RULE the employee allegedly violated with the recommended disposition. After each Rule, make reference to any applicable Departmental regulation, order, or procedure (Chapter, Special Order, General Order, Personnel Order, Bulletin, etc.), which most

specifically addresses the alleged violation (Example : Rule 4: Performance of Duty; Paragraph 2: Instructions from Authoritative source, to wit, Chapter 41.3.10 Body Worn Camera). If a **criminal or traffic law** was allegedly violated, the specific law shall be cited by statute number and wording. Multiple rules shall be cited in ascending numerical order.

45. When the recommended disposition is SUSTAINED, the investigator shall quote each rule for which he/she recommends a sustained disposition and the applicable Departmental regulation, order, procedure or law, and provide a complete explanation of how the employee may have violated the rule (i.e., if untruthful, state how, when and to whom the employee was untruthful and how, when, and by whom the employee's information is disputed). Multiple rules shall be cited in ascending numerical order.
46. When a charge is sustained, the investigator must include a violation of Rule IX of the Civil Service Rules for the City of New Orleans, as it pertains to Maintaining the Standards of Service, using the following phrase after the last listed violation:

*[Accused employee's name] may also have violated Rule IX of the Civil Service Rules for the City of New Orleans, relative to Maintaining Standards of Service.*

#### **DUE DATE**

47. All investigations that do not involve criminal activity shall be completed within the time limitations mandated by La.R.S.40:2531, unless granted an extension as provided for under state law or Civil Service exemption, in which case the investigation shall be completed within 120 days.

#### **FORMS**

48. Appendix A to this chapter is the format that shall be used for any statement taken from an accused employee in an administrative investigation.
49. Appendix B to this chapter is the format which shall be used for any statement taken from an accused employee in a criminal investigation.
50. Appendix C to this chapter is the format which shall which shall be used for any statement taken from an employee witness in an administrative or criminal investigation.
51. Appendix D to this chapter is the format which shall be used for any statement taken from a complainant and/or non-employee witness in an administrative or criminal investigation.

*STATEMENT FORMAT FOR AN INTERVIEW RELATIVE TO AN ADMINISTRATIVE  
INVESTIGATION OF A COMMISSIONED OR CIVILIAN NOPD EMPLOYEE*

*[Transcription Date]  
P.I.B. CTN # [Number]*

*[The following shall be read onto the audio tape by the investigator]*

*This is a statement under P.I.B. CTN # [control #] of New Orleans Police Department employee [accused employee's name], badge number [badge number], employee ID number [number], assigned to [assignment]. This statement is being taken by [rank/name, and assignment of person conducting interview] at [location where recording is being taken] on [date of recording].*

*This statement is relative to a complaint of alleged [title and number of alleged violation or law], reported under police item # [item # if applicable j, which occurred on [date/time of violation] at [location of violation].*

*"Q" denotes questions by [rank/name of person conducting interview].*

*"A" denotes answers given by [rank/name of accused commissioned employee].*

*Those present during the taking of this statement are [rank/name & assignment; include rank/names of accused and interviewer, also rank/name(s) and place(s) of assignment of any other person(s) present during interview].*

*The starting date and time of this statement is [starting time of statement].*

*Q: [name of accused employee], are you aware of your rights as outlined in the Police Officer's Bill of Rights, Louisiana Revised Statute 40:2531?*

*A:*

*Q: Per the provisions of the Police Officer's Bill of Rights, I will read into this record the following information:*

- 1. The nature of this investigation is a complaint of alleged [ Departmental rule, Chapter or state statute, etc.].*
- 2. The name(s) and position(s) of the (those) person(s) conducting this investigation is (are) [ rank/name and assignment of anyone presenting questions during interview].*
- 3. Those present during the taking of this statement are [interviewer's rank/name], [accused employee's name], [rank/names of others present].*
- 4. You may take notes during or record this statement.*

5. You may have counsel or other representative, or both, present during any interrogation, and you will be allowed a reasonable time to summon either or both to be present, if you so desire.

6. Your counsel may call witnesses to testify on your behalf.

Q: Do you understand what I have just read to you?

A:

Q: Do you wish to exercise any of the rights I have just read to you?

A:

Q: Be advised that I am now beginning a Departmental internal administrative investigation. I hereby advise you New Orleans Police Department Chapter 52.1.1, requires all New Orleans Police Department employees to answer questions in official inquiries. Additionally, employees must answer truthfully all questions asked in all matters and official investigations related to the scope of their employment.

Employees are required to be truthful at all times, in their spoken, written, or electronic communications, whether under oath or not, in all matters and official investigations relating to the scope of their employment and operations of the Department.

In view of this, are you willing to comply with the New Orleans Police Department Chapter 52.1.1, and make a statement, and answer questions in this Departmental internal administrative investigation?

A:

Q: Please state your name, badge number, and place of assignment.

A:

Q: I would like to bring your attention to [date, time, and location of violation]. Will you state all the pertinent facts, of which you have knowledge, concerning the incident which occurred at that time and location?

[AND/OR PROCEED WITH PREPARED QUESTIONS]

A:

Q: Is there anything you would like to add or delete from this statement?

A:

Q: Is this statement true and correct to the best of your knowledge?

A:

This concludes the statement given by [accused employee's name].

Concluding date and time of this statement is [concluding time of statement].

*STATEMENT FORMAT FOR AN INTERVIEW RELATIVE TO A  
CRIMINAL INVESTIGATION OF AN NOPD COMMISSIONED OR CIVILIAN EMPLOYEE*

*[Transcription Date]  
P.I.B. CTN # [Number]*

*[The following shall be read onto the audio tape by the investigator]*

*This is a statement under P.I.B. CTN # [complaint tracking #] of New Orleans Police Department employee [accused employee's name], badge number [badge number], employee ID number [number], assigned to [assignment]. This statement is being taken by [rank/name, and assignment of person conducting interview] at [location where recording is being taken] on [date of recording].*

*"Q" denotes questions by [rank/name of person conducting interview].*

*"A" denotes answers given by [rank/name of accused commissioned employee].*

*Those present during the taking of this statement are [rank/name & assignment; include rank/names of accused and interviewer, also rank/name(s) and place(s) of assignment of any other person(s) present during interview].*

*The starting date and time of this statement is [starting time of statement].*

*Q: [name of accused employee], are you aware of your rights as outlined in the Police Officer's Bill of Rights, Louisiana Revised Statute 40:2531?*

*A:*

*Q: Per the provisions of the Police Officer's Bill of Rights, I will read into this record the following information:*

- 1. The nature of this investigation is a complaint of alleged [nomenclature of violation or law].*
- 2. The name(s) and position(s) of the (those) person(s) conducting this investigation is (are) [rank/name and assignment of anyone presenting questions during interview].*
- 3. Those present during the taking of this statement are [interviewer's rank/name], [accused employee's name], [rank/names of others present].*
- 4. You may take notes during or record this statement.*
- 5. You may have counsel or other representative, or both, present during any interrogation, and you will be allowed a reasonable time to summon either or both to be present, if you so desire.*
- 6. Your counsel may call witnesses to testify on your behalf.*



*Q: Do you understand what I have just read to you?*

*A:*

*Q: Do you wish to exercise any of the rights I have just read to you?*

*A:*

*Q: Are you fully aware of your constitutional rights relative to the giving of a criminal statement in a criminal investigation?*

*A:*

*Q: Per the provisions of the Constitutions of the United States and the State of Louisiana, I will read into this record the following information:*

- 1. You need not make any statements, that is, you have the right to remain silent.*
- 2. Anything you say may be used against you in trial.*
- 3. You have the right to consult with and obtain the advice of an attorney before answering any questions.*
- 4. If you cannot afford an attorney, the court will obtain an attorney to represent you and advise you.*
- 5. You have the right to have your attorney or an appointed attorney present at the time of any questioning or giving of any statement. Do you understand what I have just read to you?*

*A:*

*Q: Will you waive your constitutional rights and give a statement in a criminal investigation?*

*A:*

*If the answer to the preceding question is "NO," proceed to the appropriate section of Appendix B on page 3. If the answer is "YES," go to page 4 of Appendix B.*

**IF RIGHTS ARE NOT WAIVED AND NO ADMINISTRATIVE STATEMENT IS TO BE TAKEN AT THIS TIME, USE THIS STATEMENT.]**

*Q Because of your refusal to waive your rights in a criminal investigation, I will now advise you that this statement is now concluded.*

*This concludes the statement given by [accused employee's name]  
Concluding date and time of this statement is [concluding time of statement]*

**IF RIGHTS ARE NOT WAIVED AND AN ADMINISTRATIVE STATEMENT IS TO BE TAKEN AT THIS TIME. USE THIS STATEMENT.**

**If the accused employee to be interviewed refuses to waive his or her rights, each investigator must first consult with the commander of PIB before proceeding with the administrative statement.**

*Q: Because of your refusal to waive your rights in a criminal investigation. I will now advise you I am terminating the criminal investigation and now beginning a Departmental internal administrative investigation. Do you understand this?*

*A:*

*Q: Be advised that I am now beginning a Departmental internal administrative investigation. I hereby advise you New Orleans Police Department Chapter 52.1.1 requires all New Orleans Police Department employees to answer questions in official inquiries and refusal to comply will result in termination. Additionally, employees are to be truthful at all times in all matters and official investigations relating to the scope of their employment and failure to comply will result in termination. Employees are required to be truthful at all times, in their spoken, written, or electronic communications, whether under oath or not, in all matters and official investigations relating to the scope of their employment and operations of the Department. In view of this, are you willing to comply with the New Orleans Police Department Chapter 52.1.1, and make a statement, and answer questions in this Departmental internal administrative investigation?*

*A:*

*Q: Please state your name, badge number, and place of assignment.*

*A:*

*Q: I would like to bring your attention to [date, time, and location of violation]. Will you state all the pertinent facts, of which you have knowledge, concerning the incident which occurred at that time and location? [AND/OR PROCEED WITH PREPARED QUESTIONS ]*

*A:*

*Q: Is there anything you would like to add or delete from this statement?*

*A:*

*Q: Is this statement true and correct to the best of your knowledge?*

*A:*

*[This concludes the statement given by [accused's name]. Concluding date and time is \_\_\_\_.]*

[IF CRIMINAL RIGHTS ARE WAIVED, USE THIS STATEMENT. ALSO HAVE THE EMPLOYEE SIGN "Rights of an Arrestee/Suspect" form.]

*Q: You have stated that you wish to waive your constitutional rights relative to the giving of a criminal statement in a criminal investigation. I am showing you "Rights of an Arrestee/Suspect" form #. Please read the form and sign the form. [Wait for accused to sign form.] [Name of accused officer ] has now signed "Rights of an Arrestee/Suspect" form # \_\_\_\_\_*

*A:*

*Q: Please state your name, badge number, and place of assignment.*

*A:*

*Q: I would like to bring your attention to [date/time & location of violation]. Will you state all the pertinent facts, of which you have knowledge, concerning the incident which occurred at that time and location?*

*A:*

*OR [PROCEED WITH PREPARED QUESTIONS]*

*Q: Is there anything you would like to add or delete from this statement?*

*A:*

*Q: Is this statement true and correct to the best of your knowledge?*

*A:*

*This concludes the statement given by, [accused employee's name]*

*Concluding date and time of this statement is [concluding time of statement]*

STATEMENT FORMAT RELATIVE TO AN INTERVIEW OF AN EMPLOYEE  
WITNESS IN ADMINISTRATIVE & CRIMINAL INVESTIGATIONS

NEW ORLEANS POLICE DEPARTMENT

[Transcription Date]  
P.I.B. CTN # [Number]

This is a statement under P.I.B. CTN # [control #] of [employee witness's name], badge number [badge number], employee ID number [SSN], assigned to [assignment].

This statement is relative to a complaint of alleged [violation name], which occurred on [date/time of violation] at [location of violation].

This complaint has been lodged against [accused employee's name]. This statement is being taken at [location] on [date of statement]. "Q" denotes questions by [investigator's rank/name].

"A" denotes answers given by [witness employee's name].

Those present during the taking of this statement are [rank/name & assignment]

NOTE: Employees are required to be truthful at all times, in their spoken, written, or electronic communications, whether under oath or not, in all matters and official investigations relating to the scope of their employment and operations of the Department. Failure to comply will result in termination.

The starting date and time of this statement is [starting time of statement].

Q: Please state your name, badge number, and place of assignment.

A:

Q: This is to advise you that you are being interviewed only as a possible witness in this case and as of this time you are not being accused of any misconduct. Do you understand this?

A:

Q: I would like to bring your attention to [date, time, & location of violation]. Will you state all the pertinent facts, of which you have knowledge concerning the incident which occurred at that time and location?

A:

OR [PROCEED WITH PREPARED QUESTIONS]

[Continue with Questions & Answers]

Q: Is there anything you would like to add or delete from this statement?

A:

Q: Is this statement true and correct to the best of your knowledge?

A:

This concludes the statement given by [witness employee's name]

Concluding date and time of this statement is [concluding time of statement]



STATEMENT FORMAT FOR AN INTERVIEW OF A COMPLAINANT OR NON-EMPLOYEE WITNESS IN ADMINISTRATIVE & CRIMINAL INVESTIGATIONS

P.I.B. CTN NUMBER: [Number]

This is a statement under P.I.B. CTN # [control#] made by [name], [race], [sex], [SSN], [date of birth], [address], [home phone #], [business phone# ]

This statement is relative to a complaint of alleged [violation(s) name(s)] against employee(s) [accused employee(s) name(s)] , assigned to [accused employee(s) assignment] which occurred on [date/time of violation] , at the location of [location of violation]

This statement is being taken at [location] on [date of statement].

"Q" denotes questions by [investigator's rank/name].

"A" denotes answers by [complainant/witness's name].

Those present during the taking of this statement are [rank/name & assignment]

The starting date and time of this statement is [starting time of statement].

Q: Please state your name and address.

A:

Q: Please state what happened on [date/time/location of violation].

A:

OR [PROCEED WITH PREPARED QUESTIONS ]

Q: Is there anything you would like to add or delete from this statement?

A:

Q: Is this statement true and correct to the best of your knowledge?

A:

This concludes the statement given by [subject's name]

The concluding date and time of this statement is [concluding time of statement]