



# TEXAS MUNICIPAL LAW BULLETIN™

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## Recent Case Clarifies Complaints Against Police Officers & Firefighters

When disciplining and terminating employees, the best practice is to have documentation that states the violations of policies, misconduct, or other issues leading up to the disciplinary action. The Texas Government Code contains additional documentation requirements and mandates that complaints against police officers and firefighters be:

- (1) In writing;
- (2) Signed by the Complainant; and
- (3) Given to the employee before discipline occurs.

TEX. GOV'T CODE §§ 614.022; 614.023. These complaints must also be investigated before an employee may be terminated or indefinitely suspended based on the complaint. A recent Supreme Court of Texas case provides guidance on how these complaints should be handled when the "written complaint" comes from a supervisor rather than a member of the public.

In *Colorado County, Tex., et al. v. Staff* (available at Supreme Court of Texas: *Colorado County, Tex v. Staff*) a deputy sheriff was terminated based on his inappropriate behavior towards citizens during traffic stops. The public did not file a written complaint, but a county prosecutor called the Sheriff's Office to relay concerns about the deputy. In response to this call, the deputy's supervisor viewed videos of the traffic stops in question and wrote a disciplinary notice of termination based on the videos. The deputy sheriff was given a copy of the disciplinary notice when he was terminated and was given the right to appeal to the

sheriff. The terminated deputy appealed the decision based on alleged violations of Chapter 614. The sheriff upheld the termination and the deputy appealed the case. The district court and court of appeals held in favor of the deputy and the County appealed to the Supreme Court of Texas.

The Supreme Court held that Chapter 614 applies any time a police officer or firefighter is terminated for misconduct. A written complaint, whether *internal* or *external*, must be given to the employee when terminated for misconduct. However, the Court held that the "victim" does not have to sign a Chapter 614 complaint and that giving such a complaint as a written disciplinary notice signed by a supervisor met the procedural requirements of Chapter 614. The Court also addressed the timing of the complaint by holding that an employee does not have to be given the complaint and a chance to be heard before the employee is disciplined. The statute only requires that the employee be given the complaint in a reasonable amount of time.

This case means that police departments and fire departments may discipline and terminate employees based on misconduct without obtaining a written complaint from the public. Chapter 614 is satisfied so long as the department gives written notice of misconduct based on its own observations, where the alleged misconduct has been investigated and substantiated.

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