



**INTERNAL AFFAIRS POLICY AND PROCEDURE  
GENERAL ORDER #14.01**

Adopted: 07/07/2010  
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**POLICY**

The Internal Affairs Unit will conduct thorough investigations of allegations of misconduct or neglect of duty involving employees and volunteers of the Sheriff’s Office. The Internal Affairs Unit will also conduct an investigation/review and submit their findings directly to the Sheriff in cases where it is determined a retiree who possesses a concealed weapon permit and has violated a department rule, or State or Federal law that, if violated by a Deputy Sheriff on active duty, would result in that deputy’s arrest, suspension, or removal from the agency.

**PROCEDURE**

**A. INTERNAL AFFAIRS UNIT**

1. The Internal Affairs Unit will investigate all allegations of misconduct or neglect of duty involving employees and volunteers of the Sheriff’s Office that may lead to formal discipline and will conduct other investigations as directed by the Sheriff or the Undersheriff. “Formal discipline” means any disciplinary action resulting in a letter of reprimand, suspension, or termination. Although this is the general rule, division level investigations relating to performance issues arising out of a divisional assignment may be completed at the division level even if the final outcome could rise to the level of formal discipline.
2. Investigators from the Internal Affairs Unit are authorized to cross all lines of authority to obtain written statements, to interview any employee, and to gain access to other relevant information in regard to an ongoing investigation.
3. The duties and responsibilities of the Internal Affairs Unit are to:

- a. Determine whether or not a violation of Sheriff's Office policies and procedures or County policies and procedures occurred.
- b. Clear those innocent of wrongdoing.
- c. Facilitate prompt and just disciplinary action.
- d. Uncover defective procedures and recommend changes.
- e. Abide by the Public Safety Officers Procedural Bill of Rights.
- f. Utilize an Early Warning System.
- g. Maintain and purge records of disciplinary investigations as provided by California law and by Sheriff's Office policies and procedures.
- h. Provide discovery to the court with the assistance of the Administrative Services Division and the County Counsel's Office.
- i. Report to the Sheriff, the Undersheriff, the Department of Justice, and the community.

**B. INTERNAL AFFAIRS INVESTIGATIONS**

**1. Internal Affairs Unit**

- a. The Internal Affairs Unit will conduct full and thorough investigations of allegations of misconduct or neglect of duty involving employees or volunteers of the Sheriff's Office.
- b. Upon receipt of a case, the Internal Affairs Unit will log it and assign it a case number.
- c. After the case is logged, the Internal Affairs Unit will identify the alleged violations based on a review of Sheriff's Office policies and procedures and Santa Clara County policies and procedures. If the allegations do not describe a violation of those policies and procedures or do not involve an employee or volunteer of the Sheriff's Office and no further investigation is justified, the case may be closed as "no finding."
  - 1. The prepared allegations will outline the violations alleged. A copy of these allegations along with a cover letter will be sent to the employee or volunteer allegedly involved in the incident. The cover letter will instruct him or her on how the investigation will

proceed. The cover letter also will specify the date and time the employee or volunteer must report for an interview.

2. An original copy and a proof of service copy of the allegations (proof of service) will be sent to Division Captain, who will review it and send it to the involved employee or volunteer via the chain of command.

3. The employee or volunteer's supervisor will give the original copy of allegations to the employee or volunteer. The proof of service copy of allegation will be completed by the employee or volunteer's supervisor to show they were served with the allegations. The supervisor then will return the completed proof of service copy to the Internal Affairs Unit, indicating the time, date issued, and by whom.

d. The employee or volunteer may be requested to submit a detailed written Employee's Report (ER), to the Internal Affairs Unit, via the chain of command, or may be directed to report for an interview with the Internal Affairs Unit.

e. Prior to being directed to respond to the complaint, the involved employee or volunteer will be advised that they have the right to confer with a representative of their choice and to have them present during the interview process.

f. The Internal Affairs Unit investigator or supervisor may direct any employee or volunteer not to discuss the matter with any witness, potential witness, or other employee or volunteer other than the employee's representative. Failure to follow this direction may result in disciplinary action.

## 2. Divisional Investigations

a. Divisional level investigations will generally be conducted in those cases that are not likely to lead to formal discipline. Examples of divisional level investigation cases include minor allegations of discourtesy, lack of harmonious work environment, or performance based issues.

b. The Undersheriff/Assistant Sheriffs will determine whether or not an allegation will be investigated at the divisional level. Allegations relating to sexual harassment or use of force will not be investigated at a divisional level.

- c. Allegations that will be investigated at the divisional level will be forwarded by the Internal Affairs Unit to the employee or volunteer's divisional captain, via the chain of command.
- d. If during the course of a divisional investigation, the investigator determines that there was misconduct or neglect of duty that justifies formal discipline, he or she will contact the Internal Affairs Unit, which will determine if the case should be returned to the Internal Affairs Unit for investigation.
- e. Upon completion of a divisional investigation, the final report noting disposition, including any discipline, will be returned to the Internal Affairs Unit, via the chain of command.

**3. Investigative Findings**

- a. The investigative report of the Internal Affairs Unit will contain a statement of findings with a recommended disposition--unfounded, exonerated, sustained, not sustained, or no finding--for each alleged violation.
  - 1. **Unfounded:** The investigation indicates the act complained of did not occur.
  - 2. **Exonerated:** The investigation indicates the act occurred, but the act was justified, lawful, and proper.
  - 3. **Sustained:** The investigation finds by a preponderance of the evidence that the act complained of did occur and constitutes a violation of Sheriff's Office policies and procedures or Santa Clara County policies and procedures.
  - 4. **Not sustained:** The investigation cannot prove or disprove the allegations by a preponderance of the evidence.
  - 5. **No finding:** The investigation did not result in any finding because of lack of cooperation of witnesses, because the allegations did not contain any violation of Sheriff's Office policies and procedures or Santa Clara County policies and procedures, or because the allegations did not involve an employee or volunteer of the Santa Clara County Sheriff's Office.

**C. INVESTIGATION OF CRIMINAL CASES INVOLVING EMPLOYEES OR VOLUNTEERS OF THE SHERIFF'S OFFICE**

- 1.** In cases where a deputy or investigator receives an initial call to a matter involving a Sheriff's Office employee or volunteer suspected of being involved in a criminal act, the deputy/investigator will immediately notify his or her supervisor.

  - a.** The supervisor may choose to replace the deputy or investigator and will notify the division commander's respective Assistant Sheriff.
  - b.** If the supervisor chooses to replace the initial deputy, the deputy who replaces the first will be at least one rank higher than the suspect employee.
  - c.** The supervisor will monitor the handling of the case to ensure impartiality until the replacement officer arrives.
  - d.** The on-duty watch commander may, with the direction of command staff, put the involved officer on administrative leave pending the outcome of the investigation.
- 2.** When a Sheriff's Office employee or volunteer is suspected of criminal conduct, the Internal Affairs Unit will immediately begin a parallel Administrative Internal Affairs Investigation, unless the Undersheriff determines that the Administrative Internal Affairs Investigation will impede or obstruct the criminal investigation/prosecution.
- 3.** Criminal investigations of Sheriff's Office employees and volunteers that allegedly took place within Sheriff's jurisdiction in Santa Clara County will normally be assigned to the Investigative Services Division. These assignments will be made by the Sheriff or the Undersheriff and the assigned detective will report directly to the assigning authority.
- 4.** When during the course of an Internal Affairs investigation, the Internal Affairs Unit suspects that there has been a criminal violation, the Sheriff or Undersheriff will determine who should continue the investigation.
- 5.** In all cases involving suspected criminal conduct, the Internal Affairs Unit may monitor the criminal investigation and shall have access to interviews and evidence. The Internal Affairs Unit shall not disclose any confidential information to the criminal investigator.

**D. REVIEW OF INTERNAL AFFAIRS UNIT FINDINGS**

1. Upon completion of its report and findings, the Internal Affairs Unit shall forward the report to the involved employee's Lieutenant, Captain and Bureau Assistant Sheriff for review.
2. Upon completion of the review process, the Internal Affairs Lieutenant shall schedule a meeting with the involved employees Lieutenant, Captain and the involved employee's Bureau Assistant Sheriff. The purpose of this meeting is to review the findings and determine if there is concurrence with the findings as it relates to the allegations. If further investigation is required, the report will be returned to the Internal Affairs Unit for such investigation. Upon completing the additional investigation, another meeting will be scheduled for review and concurrence.
3. If the findings of the Internal Affairs report do not contain any sustained allegations and the Command Staff concurs, the report and findings will be sent to the Internal Affairs Unit with a signed concur form from the Assistant Sheriff. The Internal Affairs Unit will send the findings to the involved employee where disciplinary action is not intended.
4. If the findings of the Internal Affairs report contains a sustained allegation, the report will be forwarded to the Support Services Captain who will schedule a meeting of the Discipline Review Board.
5. If the outcome of the Discipline Review Board leads to recommended disciplinary action and the Command Staff and/or Sheriff concurs, the report and findings will be sent to the Support Services Captain directing that a notice of proposed discipline be prepared and designating who will be the hearing officer should the employee request an opportunity to be heard. If the employee does request a hearing, the Assistant Sheriff will direct the Internal Affairs Unit to prepare a discovery packet for the involved employee, including a copy of the report and findings as well as copies of recorded interviews and any relevant supporting documents.
6. If the complainant filed the complaint as a member of the general public, the Internal Affairs Unit will draft and send a letter to the complainant indicating the results of the investigation as provided in Penal Code section 832.5. If the complainant is a Sheriff's Office employee, the Internal Affairs Unit will verbally advise the complainant that the complaint has been resolved. No notice will be sent, and no details of how the matter was resolved will be released to an employee when complaining about the behavior of another employee unless the allegations include a complaint of sexual harassment.

**G. SUPPORT SERVICES DIVISION RESPONSIBILITIES**

The Captain of the Support Services Division is responsible for:

- 1.** Drafting the recommended disciplinary action letter. The letter will indicate the name of the hearing officer and shall describe the employee’s Administrative and County appeal rights.
  - a.** Copies of the recommended disciplinary action will be sent to the Sheriff, the Undersheriff and the Assistant Sheriff, as well as the employee’s bargaining unit in cases involving 521 employees.
  - b.** A copy of the notice of intended discipline will be placed in the employee’s personnel file in the Support Services Division.
- 2.** Ensuring the recommended disciplinary action letter is served on the involved employee. The original letter should be hand delivered whenever possible. The server should be one rank above the employee. The person serving the document on the involved employee shall return a “proof of service” copy of the recommended disciplinary action letter to the Support Services Division. If the server is unable to hand deliver the notice, service will be made by registered and regular U.S. mail (add 3 days to any service/response requirement).
- 3.** Drafting and sending a notice of the findings of the hearing officer.
  - a.** The Hearing Officer, in conjunction with the Support Services Division will draft the Hearing Officer’s Decision letter. The Support Services Division will forward the Hearing Officer’s Decision Letter as follows:
    - 1.** The letter will be hand delivered, if possible, to the employee. The server should be one rank above the employee. He or she shall return a “proof of service” copy to the Support Services Division. If unable to hand deliver the letter, service will be made by U.S. registered and regular mail.
    - 2.** Copies of the letter will be forwarded to the Sheriff, the Undersheriff, the Assistant Sheriff, County Labor Relations, and County Central Personnel.
    - 3.** A copy of the Hearing Officer’s Decision will be placed in the employee’s personnel file in the Support Services Division.



members of the public or complaints reported internally by other members of the Sheriff's Office. The fact that an employee is counseled regarding multiple complaints does not imply that these complaints have been or will be sustained.

3. Once an employee has been identified by the Internal Affairs Unit as meeting the criteria for the early warning system, the unit shall forward copies of the complaints to the Undersheriff.
4. The Undersheriff will review the complaints and may refer the matter to the employee's division commander with directions to hold a counseling session.
5. The counseling to be provided to the employee is intended to be a positive tool to assist the employee to obtain a higher level of awareness. The counseling session should employ administrative techniques designed to reinforce good performance, to improve poor performance, and to correct behaviors that precipitate or contribute to complaints.
6. While counseling pursuant to the Early Warning System is not considered as discipline, the fact that a counseling session took place may be considered in determining the appropriate level of discipline in the event that similar misconduct or neglect of duty takes place in the future.



**LAURIE SMITH  
SHERIFF**