

MARICOPA COUNTY SHERIFF'S OFFICE

Memorandum



Joseph M. Arpaio, Sheriff

To: Captain D. Munley S0777
Division Commander
Bureau of Internal Oversight

From: Sergeant M. Rodriguez A9047
Audits and Inspections Unit
Bureau of Internal Oversight

Subject: Summary of Findings Report for Inspection
#BI2016-0055 with a focus on Administrative
Investigations Closed during April 2016

Date: 5/12/16

Summary:

Between May 2nd and May 12th of 2016, the Inspections and Audits Unit (IAU), Bureau of Internal Oversight (BIO), conducted an inspection of Administrative Investigations performed by the Maricopa County Sheriff's Office (MCSO) with a closed date within the month of April 2016. The purpose for the inspection was to determine if the selected administrative investigations were conducted in compliance with Office policies and in support of the Melendres Order.

Authorities:

MCSO Policy GH-2, *Internal Investigations*
MCSO Policy GC-17, *Employee Discipline Procedure*
MCSO Policy GJ-26, *Sheriff's Reserve Deputy Program*
MCSO Policy GJ-27, *Sheriff's Posse Program*
Melendres Order (Paragraph 104)

Procedure:

A list was initially obtained utilizing IAPro, which consisted of all Administrative Investigations with a closure date in the month of April 2016. The list consisted of 62 Administrative Investigations conducted by various divisions throughout the Sheriff's Office. Utilizing the obtained list, each IA number was individually numbered from one to 62.

Next, a randomizing program (www.Randomizer.org) was used to select a random sample of 25 out of the 62 Administrative Investigations for inspection. Once the sample reports were identified, the updated "*Professional Standards Bureau – Case Management Review Matrix*" was utilized to ensure consistent inspection of each individual case.

This Inspection found:

The inspection found that **19, or 76% of the investigations inspected, were in compliance** with Office Policy GH-2, *Internal Investigations*, and/or Office Policy GC-17, *Employee Discipline Procedure*, or in the cases from Enforcement Support regarding posse members or reserve deputies, Office Policy GJ-26, *Sheriff's Reserve Deputy Program*, and/or Office Policy GJ-27, *Sheriff's Posse Program*.

Statistical information discovered during inspections:

- 100% of investigations inspected included a completed Office Policy GH-2 *Maricopa County Sheriff's Complaint Acceptance Report "Attachment A."*

- Of the investigations that resulted in discipline for an employee, 100% of these investigations included discipline that was in accordance with Office Policy GC-17, *Employee Discipline Procedure*.
- Ten investigations, or 40% of investigations inspected, consisted of complaints from an internal source.
- Fifteen investigations, or 60% of investigations inspected, consisted of complaints from an external source.
- One investigation, or 4% of investigations inspected, involved a separate criminal investigation into allegations of a violation of law. No charges were filed.
- One investigation, or 4% of investigations inspected, included allegations of violations of Office Policy CP-5, the Sheriff's Office Truthfulness policy. The allegation was sustained.
- One investigation, or 4% of investigations inspected, included allegations of violations of Office Policy CP-8, *Preventing Racial and Other Biased-Based Policing*. The allegation was sustained.

Supplemental Permanent Injunction/Judgment Order/ Paragraph 104:

“Paragraph 104” of the October 2, 2013 “*Supplemental Permanent Injunction/Judgment Order*,” reads in part:

c. Complaint Tracking Investigations

Paragraph 104. Subject to applicable laws, MCSO shall require Deputies to cooperate with administrative investigations, including appearing for an interview when requested by an investigator and providing all requested documents and evidence. Supervisors shall be notified when a Deputy under their supervision is summoned as part of an administrative investigation and shall facilitate the Deputy's appearance, absent extraordinary and documented circumstances.

Statistical information relevant to Order/Paragraph 104:

This inspection found that “Paragraph 104” was not applicable in 4 of the 25 investigations reviewed (no Principals or Investigative Leads were interviewed during these four investigation). Of the remaining 21 investigations, 100% were conducted at either the division or district level where the supervisors were conducting the investigative interviews with their employees, or documentation showed (in the form of email, memorandum or recorded entry) that the employee's supervisor was notified that their employee had been summoned as part of an administrative investigation. Documentation indicates that all the employees cooperated with these investigations.

Recommendations:

It is recommended that the PSB utilize a standardized tracking/completion checklist* with each case that the assigned investigator(s) can follow throughout the investigation process to ensure compliance with Office Policy GH-2. It is recommended that the completion checklist be utilized at the end of the process when closing out cases for filing, as well. It is further recommended that information from the “*Professional Standards Bureau – Case Management Review Matrix*” and the *Supplemental Permanent Injunction/Judgment Order*, as it relates to administrative investigations, be included in the checklist.

It is recommended that Office Policy GH-2, be reviewed for the addition of language to require documentation specific to Section 5, Subsections F.1 and G.1 and Office Policy GH-2, Section 6, Subsection C as it relates to the *Supplemental Permanent Injunction/Judgment Order*, or include this information in a checklist.

It is recommended that a review of Office Policies GJ-26, *Sheriff's Reserve Deputy Program*, and GJ-27, *Sheriff's Posse Program*, be considered to adopt language consistent with that of Office Policies GH-2, *Internal Investigations* and GC-17, *Employee Discipline Procedure*.

*** The PSB has adopted a tracking/completion checklist that is being used in the case files for Administrative Investigations opened on or after 4 January 2016.**

Action Required:

With the resulting **76% compliance**, *Inspection #BI2016-0055* requires **submittal of 6 BIO Action Forms; two from the Professional Standards Bureau (IA2014-0485 and IA2015-0503) and four from the Patrol Bureau (IA2015-0700; IA2015-0771; IA2015-0796; IA2015-0813)** regarding the deficiencies described.

- The Action Forms will be assigned a return date of thirty days after this inspection is published to Sheriff's Office personnel.

Notes:

The supporting documentation (working papers) is included in the Inspection file number **BI2016-0055** and contained in IAPro. In the pages that follow there are individual breakdowns of each case reviewed and noted findings. Graphs depicting types of complaints, dispositions, and bureaus conducting investigations are included.

Individual administrative investigations inspected:

Conducted by Patrol Bureau:

District 1

- **IA2015-0771 Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline.** Complaint was made on 10/6/15. Records indicate that the supervisor completed the investigative process on 4/2/16 (179 days). Bureau Commander signed the findings on 4/20/16 (197 days). Policy GH-2, Section 3 states "*Timeline for Administrative Investigations: In cases involving law enforcement officers, the Office is statutorily obligated to make a good faith effort to complete an administrative investigation within ~~120-business~~ 180 CALENDAR days after a supervisor receives notice of an alleged policy violation. In cases not involving law enforcement officers, the Office shall work to complete an administrative investigation in a timely manner.*" **Additionally, Section 3.B.7 states that** "*The Office may make exceptions to the ~~120-business~~ 180 CALENDAR day limitation only under extenuating circumstances and with approval from the Chief Deputy, or his designee. If the Office exceeds the ~~120-business~~ 180 CALENDAR day limit, the Office shall provide the law enforcement officer with a written explanation containing the reasons why the investigation has not yet concluded.*" No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee.
- IA2015-0871 Investigation completed in accordance with Office Policy GH-2.
- IA2016-0009 Investigation completed in accordance with Office Policy GH-2.
- IA2016-0055 Investigation completed in accordance with Office Policy GH-2.

District 3

- **IA2015-0796 Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline and Interviewed Deputy/Principal not provided with required information prior to and during interview.** Complaint was made on 10/6/15. Records indicate that the supervisor completed the investigative process on 12/20/15 (75 days). Division Commander signed the investigation on 4/5/16 (182 days). Bureau Commander signed the findings on 4/20/16 (197 days). Policy GH-2, Section 3 states "*Timeline for Administrative Investigations: In cases involving law enforcement officers, the Office is statutorily obligated to make a good faith effort to complete an administrative investigation within ~~120 business~~ 180 CALENDAR days after a supervisor receives notice of an alleged policy violation. In cases not involving law enforcement officers, the Office shall work to complete an administrative investigation in a timely manner.*" **Additionally, Section 3.B.7 states that** "*The Office may make exceptions to the ~~120 business~~ 180 CALENDAR day limitation only under extenuating circumstances and with approval from the Chief Deputy, or his designee. If the Office exceeds the ~~120 business~~ 180 CALENDAR day limit, the Office shall provide the law enforcement officer with a written explanation containing the reasons why the investigation has not yet concluded.*" No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee.

Principal was not given Notice of Investigation, Garrity Warning or afforded the opportunity to have an observer present. Policy GH-2, Section 5.G.3 states in part "*The Garrity Warning and the Notice of Investigation shall be given to principals prior to an interview...*" **Subparagraph a. of this section goes on to state** "*The Notice of Investigation issued to a principal shall include the alleged facts that are the basis of the investigation, the specific nature of the investigation, the principal's status in the investigation, all known allegations of misconduct that are the reason for the interview, and the principal's right to have an observer present at the interview*"

Principal was not afforded the opportunity to make a statement at the end of his interview. Policy GH-2, Section 5.G.7 states "*At the conclusion of the interview, a principal shall be entitled to make a statement to the investigator, not to exceed five minutes, addressing specific facts or Policies that are related to the interview.*"

It is undeterminable when the principal was provided with the Closed Case Notification. A "Notice of Findings" memorandum dated 4/4/16 is in the case file. Division Commander signed the investigation on 4/5/16. Bureau Commander signed the findings on 4/20/16. **It is unknown when the notification was sent out.** Policy GH-2, Section 3.B.3 states in part "*If no discipline is warranted, within 10 business days of the determination, the division responsible for the investigation shall send the principal a closed case notification memorandum...*"

- **IA2015-0813 Investigation not completed in accordance with Office Policy GH-2. Interviewed employees not provided with required information prior to and during interview.**

Principal was not afforded the opportunity to make a statement at the end of his recorded interview. Policy GH-2 Section 5.G.7 states "*At the conclusion of the interview, a principal shall be entitled to make a statement to the investigator, not to exceed five minutes, addressing specific facts or Policies that are related to the interview.*"

Witness/Investigative Lead was given a Notice of Investigation (NOI), Garrity Warning and afforded the opportunity to have an observer present AFTER the interview was concluded. On 12/15/2015, at the beginning of the recorded interview, the investigator told the employee that there is no need for a NOI or Garrity because he (the investigator) is "...*just trying to find out what took place when you went out there...*" The investigator concludes the recorded interview by telling the employee that "...*this is just an internal... an external complaint, so, like I said it's not a, not, not serious investigation in (unintelligible) in effect that you need a NOI, or Garrity, or anything like that...*" In the incident summary, the investigator writes "**After completing my interview with Deputy... I decided to provide him with both a Notice of Investigation and Garrity Warnings. This was done due to this complaint fell under CP 2 Code of Conduct...**" Policy GH-2, Section 5.F.3 states in part "*The Garrity Warning and the Notice of Investigation shall be given to investigative leads prior to an administrative investigation interview.*"

The investigator, after the interview had been concluded, also had the employee sign a memorandum that states in part "*I have voluntarily chosen to proceed with this Administrative interview on 12/15/2015, without the presence of an employee observer.*" Policy GH-2 Section 5.F.4 states in part "...*the investigative lead shall be notified that he may request to have an observer present during the interview, at no cost to the Office. The investigator shall have the investigative lead complete the Employee Observer Admonition or the Observer Waiver Form prior to the interview.*"

District 4

- IA2015-0836 Investigation completed in accordance with Office Policy GH-2.

District 6

- **IA2015-0700** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 120 business day timeline.* Initial complaint was made on **9/14/14**. Records indicate that investigative action at the District was completed on **3/30/16** (198 days). The Bureau Commander approved the finding on **4/20/16** (219 days). For investigations started in 2015, Policy GH-2, Section 3 states "*Timeline for Administrative Investigations: In cases involving law enforcement officers, the Office is statutorily obligated to make a good faith effort to complete an administrative investigation within ~~120-business~~ 180 CALENDAR days after a supervisor receives notice of an alleged policy violation. In cases not involving law enforcement officers, the Office shall work to complete an administrative investigation in a timely manner.*" **Additionally, Section 3.B.7 states that** "*The Office may make exceptions to the ~~120-business~~ 180 CALENDAR day limitation only under extenuating circumstances and with approval from the Chief Deputy, or his designee. If the Office exceeds the ~~120-business~~ 180 CALENDAR day limit, the Office shall provide the law enforcement officer with a written explanation containing the reasons why the investigation has not yet concluded.*" No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee.

SWAT/High Risk Response

- IA2015-0812 Investigation completed in accordance with Office Policy GH-2.

Conducted by Professional Standards Bureau (PSB):

- **IA2014-0485** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 120 business day timeline.* Initial complaint was received on 2/5/14 and was timely submitted up the chain of command. Records indicate that investigative action by PSB was completed on 3/25/16 (536 business days). The Chief Deputy approved the finding on 4/11/16 (547 business days). The Principal was promptly notified of the findings. For investigations started in 2014, Policy GH-2, Section 3 states "*Timeline for Administrative Investigations: In cases involving law enforcement officers, the Office is statutorily obligated to make a good faith effort to complete an administrative investigation within 120 business days after a supervisor receives notice of an alleged policy violation. In cases not involving law enforcement officers, the Office shall work to complete an administrative investigation in a timely manner.*" **Additionally, Section 3.B.7 states that** "*The Office may make exceptions to the 120 business day limitation only under extenuating circumstances and with approval from the Chief Deputy, or his designee. If the Office exceeds the 120 business day limit, the Office shall provide the law enforcement officer with a written explanation containing the reasons why the investigation has not yet concluded.*" No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee.
- IA2014-0820 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0098 Investigation completed in accordance with Office Policies GH-2 and GC-17.
- IA2015-0304 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0408 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0471 Investigation completed in accordance with Office Policy GH-2.
- **IA2015-0503** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 120 business day timeline.* Initial complaint was received by PSB on 7/6/15. Records indicate that the investigation by PSB was completed on 2/29/16 (238 days). The Chief Deputy approved the finding on 4/7/16 (**276 days**). The employee was promptly notified of the findings. For investigations started in 2015, Policy GH-2, Section 3 states "*Timeline for Administrative Investigations: In cases involving law enforcement officers, the Office is statutorily obligated to make a good faith effort to complete an administrative investigation within ~~120 business~~ 180 CALENDAR days after a supervisor receives notice of an alleged policy violation. In cases not involving law enforcement officers, the Office shall work to complete an administrative investigation in a timely manner.*" **Additionally, Section 3.B.7 states that** "*The Office may make exceptions to the ~~120 business~~ 180 CALENDAR day limitation only under extenuating circumstances and with approval from the Chief Deputy, or his designee. If the Office exceeds the ~~120 business~~ 180 CALENDAR day limit, the Office shall provide the law enforcement officer with a written explanation containing the reasons why the investigation has not yet concluded.*" No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee.
- IA2015-0672 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0906 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0908 Investigation completed in accordance with Office Policy GH-2.

- IA2015-0923 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0930 Investigation completed in accordance with Office Policies GH-2 and GC-17.
- IA2015-0932 Investigation completed in accordance with Office Policy GH-2.
- IA2016-0001 Investigation completed in accordance with Office Policies GH-2 and GC-17.
- IA2016-0110 Investigation completed in accordance with Office Policy GH-2.
- IA2016-0135 Investigation completed in accordance with Office Policy GH-2.

❖ **Bolded case numbers** identify investigations not completed in accordance with Office Policies GH-2, *Internal Investigations*, or GC-17, *Employee Disciplinary Procedure*, or in the cases from Enforcement Support Division regarding posse members or reserve deputies, GJ-26, *Sheriff's Reserve Deputy Program*, and/or GJ-27, *Sheriff's Posse Program*.



*Maricopa County Sheriff's Office
Administrative Investigations
By Investigating Bureau
April of 2016*



Bureau:	Cases Closed:	Sustained:	Not Sustained:	Unfounded:	Exonerated:	Internal Complaint:	External:
PSB	16	6	3	3	4	9	7
SWAT	1	0	1	0	0	0	1
Patrol	8	0	6	0	2	1	7
Total:	25	6	10	3	6	10	15

Total IA cases closed this month:	62
Of cases inspected, investigated criminally:	1
Of cases inspected, not assigned criminally:	24
Total number reviewed during inspection:	25

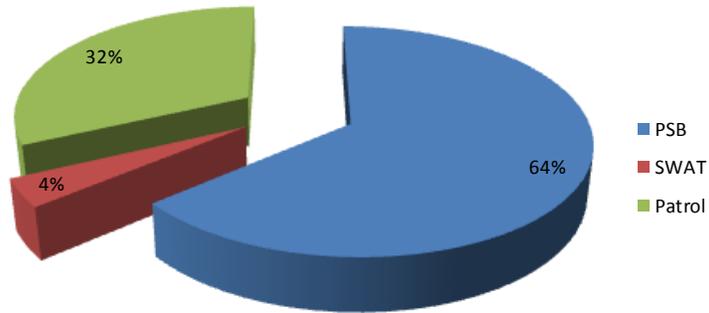




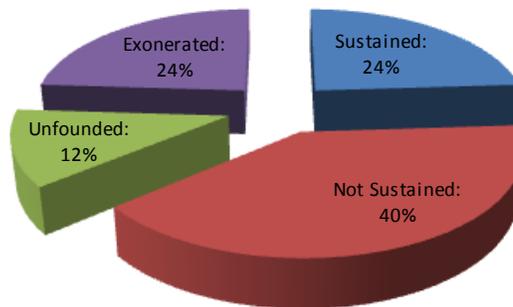
Maricopa County Sheriff's Office
Administrative Investigations
April of 2016



Investigating Bureau:



Case Clearance Type:

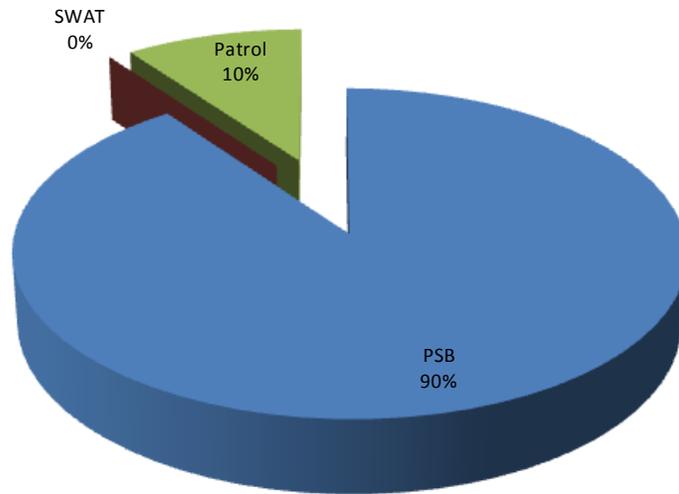




Maricopa County Sheriff's Office
Administrative Investigations
April of 2016



Internal Complaints:

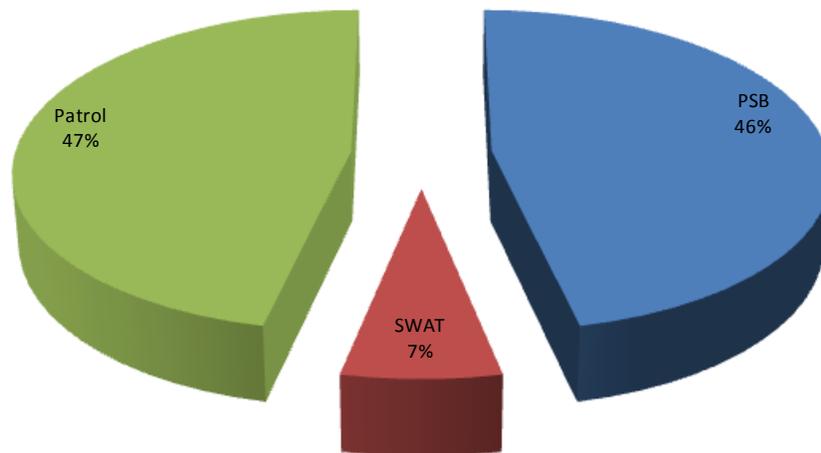




Maricopa County Sheriff's Office
Administrative Investigations
April of 2016



External Complaints:



Inspection focus: Administrative Investigations

Date Inspection Started: May 2, 2016

Date Completed: May 12, 2016

Timeframe Inspected: April 2016

Assigned Inspector: Sgt. M. Rodriguez A9047

I have reviewed this inspection report.

 #771

**Captain Dave Munley
Division Commander
Audits and Inspections**

5/16/16
Date

 #1011

**Deputy Chief Bill Knight
Bureau Commander
Bureau of Internal Oversight**

5/16/16
Date