

MARICOPA COUNTY SHERIFF'S OFFICE
Bureau of Internal Oversight
Audits and Inspections
#BI2016-0011

Inspection focus: Administrative Investigations

Date Inspection Started: February 1, 2015

Date Completed: February 23, 2015

Timeframe Inspected: January 2016

Assigned Inspector: Sgt. M. Rodriguez A9047

I have reviewed this inspection report.

A handwritten signature in black ink, followed by the number #777.

Captain Dave Munley
Division Commander
Audits and Inspections

02/24/2016

Date

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Deputy Chief Bill Knight
Bureau Commander
Bureau of Internal Oversight

02/24/2016

Date

MARICOPA COUNTY SHERIFF'S OFFICE

Memorandum



Joseph M. Arpaio, Sheriff

To: Captain D. Munley S0777
Division Commander
Audits and Inspections Unit
Bureau of Internal Oversight

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

Subject: Summary of Findings Report for Inspection
#BI2016-0011 with a focus on Administrative
Investigations Closed during January 2016

Date: 02/24/16

Summary:

Between February 1st and February 23rd of 2016, the Bureau of Internal Oversight (BIO), Inspections and Audits Unit (IAU) conducted an inspection of Administrative Investigations performed by the Maricopa County Sheriff's Office (MCSO) with a closed date within the month of January 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 January 2016. The list consisted of 75 Administrative Investigations conducted by various divisions throughout the Sheriff's Office. Utilizing the obtained list, each IA number was individually numbered from one to 75.

Next, a randomizing program (www.Randomizer.org) was used to select a random sample of 25 out of the 75 Administrative Investigations for inspection. Once the sample reports were identified, the updated "*Professional Standards Bureau – Case Management Review Matrix*" questionnaire was utilized to ensure consistent inspection of each individual case.

During the time that this inspection was being conducted, 2 of the 25 selected Administrative Investigations were re-opened. One investigation was re-opened after the Professional Standards Bureau (PSB) determined that additional investigative action was needed. The second investigation was re-opened after the MCSO Policy Compliance section determined that a Pre-Determination Hearing (PDH) was necessary. Because of these unexpected events, these two investigations were not used statistically in this report. Therefore, 23 investigations were inspected and included in the report.

This Inspection found:

The inspection found that **78%**, or 18 of the applicable administrative investigative cases, 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*.

The following investigations lacked policy requirements and were therefore not in compliance:

- **IA2015-0174** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline and Principal not given a Notice of Investigation (NOI), Garrity, or opportunity for an employee observer.* Complaint was received on 3/2/15. Division Commander signed the investigation findings on 12/7/15 (280 calendar days). Records indicate that the Principal was interviewed during this investigation. No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee, or that the Principal was given a NOI naming him a Principal in an administrative investigation or that he was given a Garrity warning or afforded the opportunity to have an employee observer present during the interview.

- **IA2015-0416** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline.* Complaint was received on 5/29/15. Investigative process was completed on 11/3/15 (158 calendar days). Chief Deputy/Designee signed investigation on 01/06/16 (222 days). Closed Case Notification was sent out on 01/07/16 (223 days) No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee.

- **IA2015-0438** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline. Principal not given a Notice of Investigation (NOI), Garrity, or opportunity for an employee observer.* Complaint was received on 6/1/15. Investigative process was completed on 6/15/15. Bureau Commander signed investigation on 12/10/15 (192 days). No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee. Principal was interviewed during this investigation. No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee No record could be located to suggest that the Principal was given a NOI naming him a Principal in an administrative investigation or that he was given a Garrity warning, or afforded the opportunity to have an employee observer present during the interview.

- **IA2015-0439** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline. Principal not given a Notice of Investigation (NOI), Garrity, or opportunity for an employee observer.* Complaint was received on 6/3/15. Investigative process was completed on 6/8/15. Bureau Commander signed investigation on 12/10/15 (190 days). No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee. Principal was interviewed during this investigation. No record could be located to suggest that the Principal was given a NOI naming him a Principal in an administrative investigation or that he was given a Garrity warning, or afforded the opportunity to have an employee observer present during the interview.

- **IA2015-0506** *Investigation not completed in accordance with Office Policy GH-2. Principal not given a Notice of Investigation (NOI), Garrity, or opportunity for an employee observer.* Principal was interviewed during this investigation. No record could be located to suggest that the Principal was given a NOI naming him a Principal in an administrative investigation or that he was given a Garrity warning, or afforded the opportunity to have an employee observer present during the interview.

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."*
- 100% of the applicable investigations inspected were completed in accordance with Office Policy GC-17 *Employee Discipline Procedure.*
- Nineteen investigations, or 83% of the investigations inspected, were completed within the 180 calendar day timeframe in accordance with Office Policy GH-2 and state law, or had extenuating circumstances as allowed in Policy GH-2.
- One investigation, or 4% of the investigations inspected, was completed beyond the 180 calendar days required by Office Policy GH-2 (**IA2015-0416**).
- One investigation, or 4% of the investigations inspected, was completed beyond the 180 calendar days required by Office Policy GH-2 and state law. In addition, there was no record that the Principal in this investigation was provided with a Notice of Investigation, a Garrity warning, afforded the opportunity to have an Employee Observer present, or that the Principal was afforded the opportunity to make a statement, not to exceed 5 minutes, at the end of the interview (**IA2015-0174**).
- Two investigations, or 8% of the investigations inspected, were completed beyond the 180 calendar days required by Office Policy GH-2 and state law. Investigation lacked documentation required by Office Policy GH-2. Specifically, there was no record that the Principals in these investigations were provided with a Notice of Investigation, a Garrity warning, afforded the opportunity to have and Employee Observer present, or afforded the opportunity to make a statement, not to exceed 5 minutes, at the end of their interviews. Available records are insufficient to determine when the Closed Case Notifications were sent out to the Principals (**IA2015-0438, IA2015-0439**).
- One investigation, or 4% of the investigations inspected, lacked documentation required by Office Policy GH-2. Specifically, there was no record that the Principal in this investigation was provided with a Notice of Investigation, a Garrity warning, afforded the opportunity to have and Employee Observer present, or afforded the opportunity to make a statement, not to exceed 5 minutes, at the end of his interview. Available records are insufficient to determine when the Closed Case Notification was sent out to the Principal (**IA2015-0506**).
- Seven investigations, or 100% of applicable investigations inspected, included discipline that was consistent with the Sheriff's Office Disciplinary Matrix.
- Twelve investigations, or 52% of investigations inspected, consisted of complaints from an internal source.
- Eleven investigations, or 48% of investigations inspected, consisted of complaints from an external source.
- One investigation, or 4% of investigations inspected, included a separate criminal investigation into allegations of a violation of law. No charges were filed.
- One investigation, or 4% of investigations inspected, consisted of allegations of violations of Office Policy CP-5, the Sheriff's Office Truthfulness policy. The allegation was not sustained.

- No administrative investigation inspected consisted of allegations of violation of Office Policy CP-8, *Preventing Racial and Other Biased-Based Policing*.

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 20 investigations, or 100%, of the applicable sample group 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.

Seven investigations of the applicable sample group failed to show documentation (thus undeterminable) that employees cooperated in the investigative process. Thirteen investigations of the applicable sample group included a “*Closed Case Notification*” memorandum indicating the investigation was concluded as “*Not Sustained*,” “*Exonerated*,” or “*Unfounded*.” That memorandum states in part, “***Your patience and cooperation throughout the investigation was appreciated.***” (This memorandum is found on the U:\Internal Affairs\Forms and is accessible to all sheriff employees.) This memorandum was not generated in investigation cases where policy violations were “*Sustained*.” While this report does not show any deficiencies relating to the specific *Order* paragraph, there currently appears to be no actual consistent tracking mechanism in place for this task.

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 **78% compliance**, *Inspection #BI2016-0011* requires submittal of **5 BIO Action Forms; one from the Professional Standards Bureau** (IA2015-0416) and **four from the Patrol Bureau** (IA2015-0174; IA2015-0438; IA2015-0439; IA2015-0506) 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.
- MCSO BIO will conduct future inspections of administrative investigations within the next thirty days.

Notes:

All supporting documentation (working papers) are included in the Inspection file number **BI2016-0011** 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

- IA2015-0665 Completed in accordance with Office Policy GH-2. Supervisor conducted the investigation. The Closed Case Notification memorandum indicated that the employee cooperated with the investigation.

Additional Note (*Not a violation of Policy*): Due to equipment failure, a complete recording of the interview with the Principal was not obtained; therefore, from the available records, it is undeterminable if the Principal was afforded the opportunity to make a statement, not to exceed 5 minutes, at the end of his interview.

District 4

- IA2015-0647 Completed in accordance with Office Policy GH-2. Supervisor conducted the investigation. Closed Case Notification memorandum indicated that the employee cooperated with the investigation.

Lake Patrol

- **IA2015-0174** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline and Principal not given a Notice of Investigation (NOI), Garrity, or opportunity to have an employee observer present.* Complaint was received on 3/2/15. Supervisor completed investigative process on 3/23/15. The Bureau Commander signed the investigation findings on 12/7/15 (283 calendar 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." No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee. **Principal was interviewed on 3/22/15 and records indicate that during the investigation a second deputy was interviewed as a witness.** No record could be located to suggest that the Principal was given a NOI naming him a Principal in an administrative investigation, or that he was given a Garrity warning, or afforded the opportunity to have an employee observer present during the interview. 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.*" The Closed Case Notification indicates that the employee cooperated with the investigation.

- **IA2015-0438** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline. The Principal was not given a Notice of Investigation (NOI), Garrity, or opportunity to have an employee observer present.* Complaint was received on 6/1/15. Supervisor completed investigative process on 6/15/15. The Bureau Commander signed the investigation findings on 12/10/15 (**192 calendar days**). No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee. 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.*" Records indicated that the Principal was interviewed during this investigation. No record could be located to suggest that the Principal was given a NOI naming him a Principal in an administrative investigation, or that he was given a Garrity warning, or afforded the opportunity to have an employee observer present during the interview. 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.*" Available records are insufficient to determine when the Closed Case Notification was sent out to the Principal. The Closed Case Notification is dated 8/4/15 and records indicate that the Bureau Commander signed the investigation findings on 12/10/15. The Closed Case Notification indicates that the employee cooperated with the investigation.

- **IA2015-0439** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline. The Principal was not given a Notice of Investigation (NOI), Garrity, or opportunity to have an employee observer present.* Complaint was received on 6/3/15. Supervisor completed investigative process on 6/8/15. The Bureau Commander signed the investigation findings on 12/10/15 (**190 calendar days**). No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee. 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." Records indicated that the Principal was interviewed during this investigation. No record could be located to suggest that the Principal was given a NOI naming him a Principal in an administrative investigation, or that he was given a Garrity warning, or afforded the opportunity to have an employee observer present during the interview. 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.*" Available records are insufficient to determine when the Closed Case Notification was sent out to the Principal. The Closed Case Notification is dated 8/4/15 and records indicate that the Bureau Commander signed the investigation findings on 12/10/15. The Closed Case Notification indicates that the employee cooperated with the investigation.

- **IA2015-0506** *Investigation not completed in accordance with Office Policy GH-2. The Principal was not given a Notice of Investigation (NOI), Garrity, or opportunity to have an employee observer present.* Records indicated that the Principal was interviewed during this investigation. No record could be located to suggest that the Principal was given a NOI naming him a Principal in an administrative investigation, or that he was given a Garrity warning, or afforded the opportunity to have an employee observer present during the interview. 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.*" Available records are insufficient to determine when the Closed Case Notification was sent out to the Principal. The Closed Case Notification is dated 8/4/15 and records indicate that the Bureau Commander signed the investigation findings on 12/10/15. The Closed Case Notification indicates that the employee cooperated with the investigation.

Conducted by Professional Standards Bureau (PSB):

- **IA2015-0416** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 180 day timeline.* Internal complaint was received on 5/29/15. Investigative process was completed on 11/3/15 (158 days). Chief Deputy/Designee signed investigation on 01/06/16 (222 days). Closed Case Notification is dated 01/07/16 (223 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.*" No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee. Records

indicate that the employee cooperated with the investigation and that supervisors were notified of their employees being summoned as part of an administrative investigation.

- IA2015-0451 Completed in accordance with Office Policy GH-2. Closed Case Notification memorandum indicated that the employee cooperated with the investigation. Supervisors were notified of their employees being summoned as part of an administrative investigation.
- IA2015-0571 Completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no true tracking mechanism in place. Supervisor was notified of the employee being summoned as part of an administrative investigation.
- IA2015-0594 Completed in accordance with Office Policy GH-2. Not an allegation of misconduct or a complaint; rather, this was a request for assistance with a case of Identity Theft.
- IA2015-0595 Completed in accordance with Office Policy GH-2. Closed Case Notification memorandum indicated that the employee cooperated with the investigation. Supervisor was notified of the employee being summoned as part of an administrative investigation.
- IA2015-0628 Completed in accordance with Office Policy GH-2. Closed Case Notification memorandum indicated that the employee cooperated with the investigation. Supervisor was notified of the employee being summoned as part of an administrative investigation.
- IA2015-0674 Completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether all employees cooperated with the investigation, no true tracking mechanism in place. Supervisors were notified of the employees being summoned as part of an administrative investigation.
- IA2015-0686 Completed in accordance with Office Policy GH-2. Closed Case Notification memorandum indicated that the employee cooperated with the investigation. Supervisor was notified of the employee being summoned as part of an administrative investigation.
- IA2015-0691 Completed in accordance with Office Policy GH-2. No employees were interviewed during this investigation.
- IA2015-0731 Completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether all employees cooperated with the investigation, no true tracking mechanism in place. Supervisors were notified of the employees being summoned as part of an administrative investigation.
- IA2015-0806 Completed in accordance with Office Policy GH-2. Closed Case Notification memorandum indicated that the employee cooperated with the investigation. Supervisor was notified of the employee being summoned as part of an administrative investigation.
- IA2015-0811 Completed in accordance with Office Policy GH-2. Alleged victim was released from custody before the investigation was started and there is no address of record for him. No employees were interviewed during this investigation.
- IA2015-0815 Completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employees cooperated with investigation, no true tracking mechanism in place.

Supervisors were notified of the employees being summoned as part of an administrative investigation.

- IA2015-0816 Completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employees cooperated with investigation, no true tracking mechanism in place. Supervisors were notified of the employees being summoned as part of an administrative investigation.
- IA2015-0824 Completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employees cooperated with investigation, no true tracking mechanism in place. Supervisors were notified of the employees being summoned as part of an administrative investigation.
- IA2015-0831 Completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employees cooperated with investigation, no true tracking mechanism in place. Supervisors were notified of the employees being summoned as part of an administrative investigation.
- IA2015-0841 Completed in accordance with Office Policy GH-2. Closed Case Notification memorandum indicated that the employee cooperated with the investigation. Supervisor was notified of the employee being summoned as part of an administrative investigation.

❖ **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*.

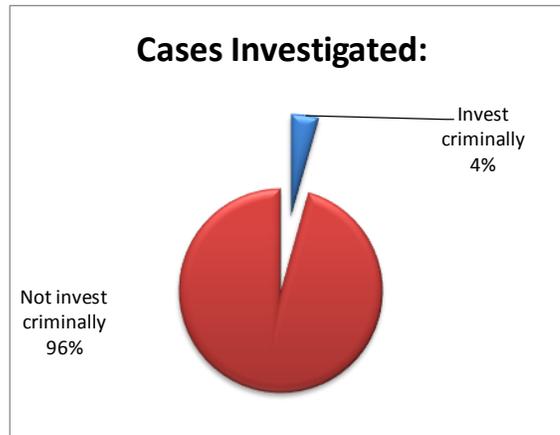
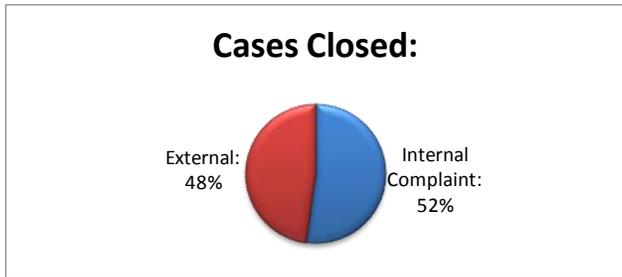


Maricopa County Sheriff's Office
Administrative Investigations - Bureau Investigating
Monthly Info
January of 2016



Bureau:	Cases Closed:	Sustained:	Not Sustained:	Unfounded:	Exonerated:	Internal Complaint:	External:
P.S.B.	17	7	4	5	1	11	6
Patrol	6	0	5	0	1	1	5
Total:	23	7	9	5	2	12	11

Total IA cases closed this month:	75
Of cases inspected, investigated criminally:	1
Of cases inspected, not assigned criminally:	22
Total number reviewed during inspection:	23

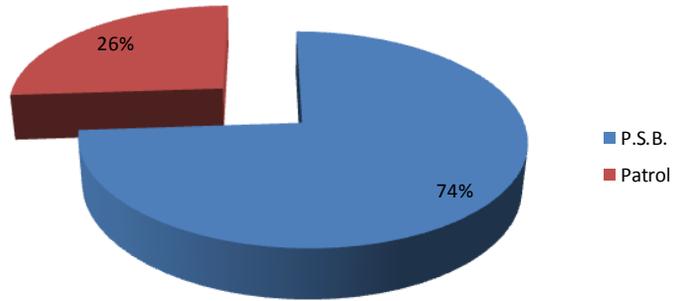




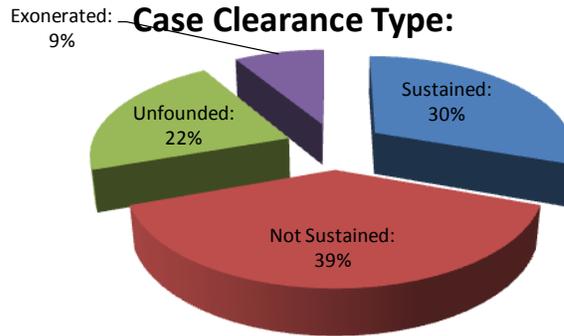
Maricopa County Sheriff's Office
Administrative Investigations - Monthly Info
January of 2016



Investigating Bureau:



Case Clearance Type:

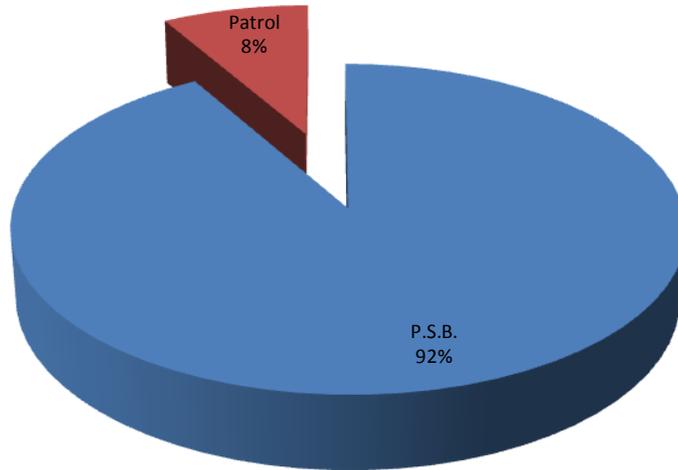




Maricopa County Sheriff's Office
Administrative Investigations - Monthly Info
January of 2016



Internal Complaints:





Maricopa County Sheriff's Office
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External Complaints:

