

MARICOPA COUNTY SHERIFF'S OFFICE
Bureau of Internal Oversight
Audits and Inspections
#BI2016-0038

Inspection focus: Administrative Investigations

Date Inspection Started: April 1, 2016

Date Completed: April 11, 2016

Timeframe Inspected: March 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

4/12/16

Date

A handwritten signature in black ink, followed by the number #1011.

Deputy Chief Bill Knight
Bureau Commander
Bureau of Internal Oversight

4/12/16

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
#BI2016-0038 with a focus on Administrative
Investigations Closed during March 2016

Date: 4/11/16

Summary:

Between April 1st and April 11th 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 March 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*
MCSO Policy GH-4, *Bureau of Internal Oversight*
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 March 2016. The list consisted of 80 Administrative Investigations conducted by various divisions throughout the Sheriff's Office. Utilizing the obtained list, each IA number was individually numbered from one to 80.

Next, a randomizing program (www.Randomizer.org) was used to select a random sample of 25 out of the 80 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.

This Inspection found:

The inspection found that **21, or 84% 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."*

- All investigations that included discipline for Office Employees, were in accordance with Office Policy GC-17 *Employee Discipline Procedure*.
- Eleven investigations, or 44% of investigations inspected, consisted of complaints from an internal source.
- Fourteen investigations, or 56% of investigations inspected, consisted of complaints from an external source.
- Two investigations, or 8% of investigations inspected, involved a separate criminal investigation into allegations of a violation of law. In one of these cases, charges were filed and prosecuted.
- One investigation, or 4% of investigations inspected, included allegations of violations of Office Policy CP-5, the Sheriff's Office Truthfulness policy. The allegations were not sustained.
- Four investigations, or 16% of investigations inspected, included allegations of violations of Office Policy CP-8, *Preventing Racial and Other Biased-Based Policing*. The allegations were not 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 (two involved volunteer posse and in two others, no principals or investigative leads were interviewed during the 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.

Of the 21 applicable investigations, 8 failed to show documentation (thus undeterminable) that employees cooperated in the investigative process. Thirteen investigations of the applicable group included documentation that indicated that the employees cooperated with the investigation. While this report does not show any deficiencies relating to the specific *Order* paragraph, there currently appears to be no 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 **84% compliance**, *Inspection #BI2016-0038* requires submittal of **4 BIO Action Forms; one from the Professional Standards Bureau (IA2014-0119) and three from the Patrol Bureau (IA2015-0120; IA2015-0709; IA2015-0873)** 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) is included in the Inspection file number **BI2016-0038** 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

- **IA2015-0120 Investigation not completed in accordance with Office Policy CP-8 or GH-2. Investigation not conducted by PSB and Case not completed within 180 day timeline.** MCSO Critical Policy CP-8, section 3 requires that “*All allegations of violations of this Policy will be referred to and investigated by the Professional Standards Bureau.*”

Complaint was received on 2/9/15. Supervisor completed investigative process on **4/8/15** (58 calendar days). The Division Commander signed the investigation findings on **1/22/16 (347 calendar days)**. Bureau Commander signed the findings on **3/9/16 (394 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." Records on file indicate that a "Notice of Findings" memorandum was prepared (dated 4/7/15) with the instruction "for dissemination after approved and signed by Chief Deputy." No records could be located to indicate that this was done; therefore, unable to determine if the Principal received written notification upon completion of the investigation.

- IA2015-0929 Supervisor conducted the investigation in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no tracking mechanism in place.

District 2

- **IA2015-0873 Investigation not completed in accordance with Office Policy GH-2. *Interviewed employees not provided with required information during interviews.*** Investigator conducted recorded interviews with two deputies as Investigative Leads; however, neither employee was given a written Notice of Investigation (NOI), Garrity Warning, or provided with the opportunity to have an Observer present. Policy GH-2 section 5.F.3 states in part that "*The Garrity Warning and the Notice of Investigation **shall** be given to investigative leads prior to an administrative investigation interview...The Notice of Investigation issued to investigative leads shall clarify their status in the investigation.*" Additionally, the 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 that "*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.*"

District 3

- **IA2015-0709 Investigation not completed in accordance with Office Policy GH-2. *Principal not provided with required information.*** No records could be located to indicate that a Closed Case Notification was provided to the Principal (**Exonerated**). Policy GH-2, section 10 states that "*Upon completion of the investigation, if the findings are determined to be Not Sustained, Unfounded, or Exonerated, the division responsible for the investigation **shall** send the principal a Closed Notification memorandum notifying the principal of the outcome...*" Additionally, the 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 that "*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.*"
- IA2015-0886 Supervisor conducted the investigation in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no tracking mechanism in place.

District 4

- IA2015-0834 Investigation completed in accordance with Office Policy GH-2.
- IA2016-0007 Supervisor conducted the investigation in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no tracking mechanism in place.

Enforcement Support Bureau

- IA2015-0670 Completed in accordance with Office Policy GJ-27, Sheriff's Posse Program. Office Policies GH-2 and GC-17 do not apply to the Posse.
- IA2015-0860 Completed in accordance with Office Policy GJ-27, Sheriff's Posse Program. Office Policies GH-2 and GC-17 do not apply to the Posse.

Detectives and Investigations Bureau

- IA2015-0719 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0797 Investigation completed in accordance with Office Policy GH-2.

Conducted by Professional Standards Bureau (PSB):

- **IA2014-0119** *Investigation not completed in accordance with Office Policy GH-2. Case not completed within 120 business day timeline.* Incident complaint was received on 2/22/14. Records indicate that the initial inquiry was conducted at District III and that on 2/25/14 it was forwarded to PSB. On 01/20/16 (**478 business days from complaint**) PSB assigned investigator. Investigative action was completed on 3/4/16. Findings were approved on 3/8/16 (**511 business days from complaint**) and the Closed Case Notification is dated the same day. 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.*" No record could be located to suggest that an extension request was submitted to the Chief Deputy or his designee.
- IA2015-0196 Investigation completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no tracking mechanism in place.
- IA2015-0498 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0703 Investigation completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no tracking mechanism in place
- IA2015-0729 Investigation completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no tracking mechanism in place.
- IA2015-0775 Investigation completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no tracking mechanism in place.

- IA2015-0788 Investigation completed in accordance with Office Policies GH-2 and GC-17. Undeterminable whether employee cooperated with investigation, no tracking mechanism in place.
- IA2015-0823 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0837 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0847 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0865 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0876 Investigation completed in accordance with Office Policy GH-2.
- IA2015-0911 Investigation completed in accordance with Office Policy GH-2.
- IA2016-0089 Prior to investigative action being initiated, the specified allegation was deemed to have been an absence protected by FMLA

❖ **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*.

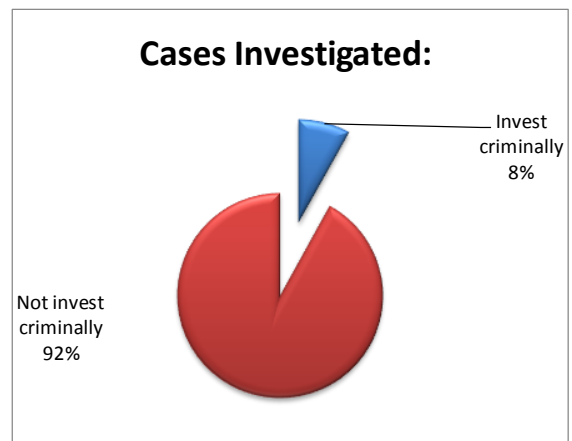
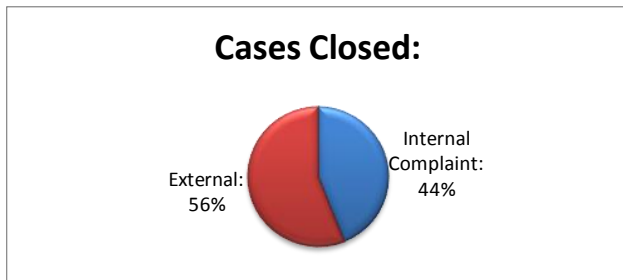


*Maricopa County Sheriff's Office
Administrative Investigations
By Investigating Bureau
March of 2016*



Bureau:	Cases Closed:	Sustained:	Not Sustained:	Unfounded:	Exonerated:	Internal Complaint:	External:
PSB	14	5	4	1	4	6	8
Patrol	7	3	2	1	1	3	4
Enf. Support	2	1	0	0	1	1	1
Det. & Investiga	2	0	0	2	0	1	1
Total:	25	9	6	4	6	11	14

Total IA cases closed this month:	80
Of cases inspected, investigated criminally:	2
Of cases inspected, not assigned criminally:	23
Total number reviewed during inspection:	25

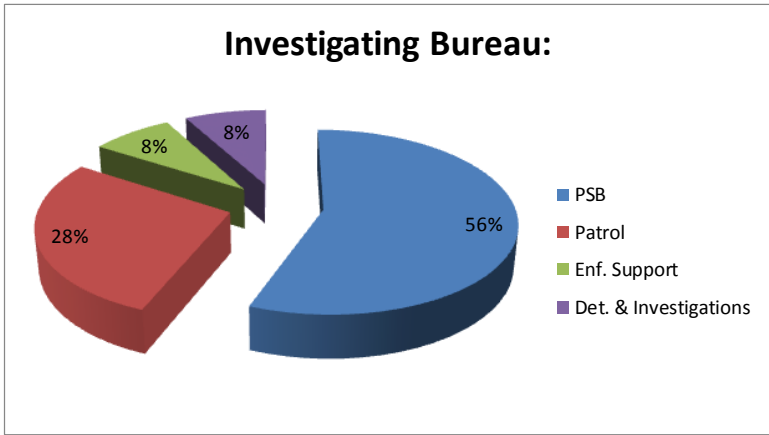




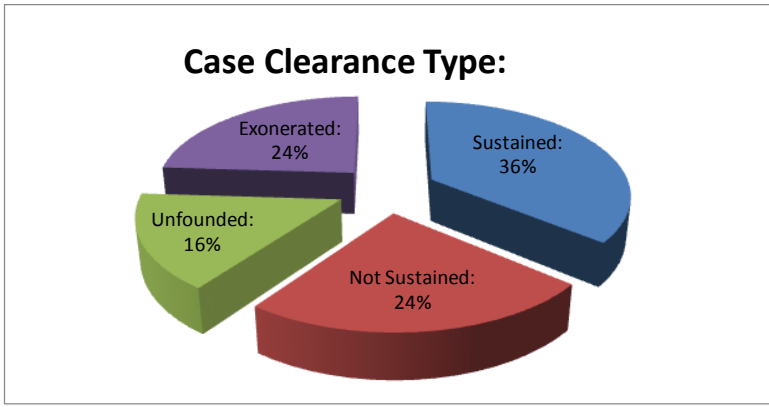
Maricopa County Sheriff's Office
Administrative Investigations
March of 2016



Investigating Bureau:



Case Clearance Type:

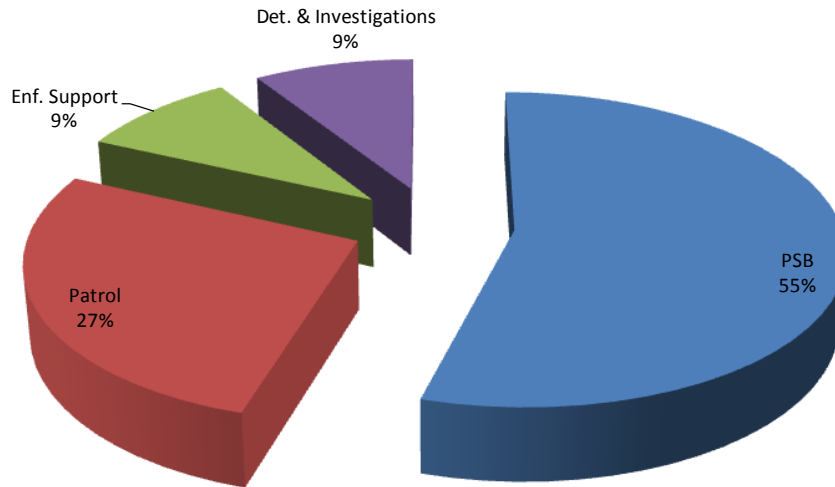




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Internal Complaints:





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External Complaints:

