
From: Wesley Mukoyama [REDACTED]
Sent: Saturday, November 21, 2015 5:19 PM
To: Schroeder, Rhonda
Subject: Re: Supplemental Information - 11/21/15 Blue Ribbon Commission on Improving Custody Operations Agenda

Dear Ms. Schroeder,

As discussed at the Blue Ribbon Commission, I am submitting four questions for the next meeting.

The following is one of the questions regarding complaints. Even though I have read the procedures an inmate can make to submit a complaint and there seem to be assurances of confidentiality, nevertheless, I have learned that despite assurances confidentiality has been broken.

1. How can the Jail authorities further insure that trust in confidentiality is insured and guaranteed?
2. During orientation, are the new inmates given instructions in writing and orally, how he can make a complaint or make a recommendation with his own safety and security protected? Is it possible for another inmate to make a complaint for another inmate when he/she sees an infraction committed by a correctional officer?
3. Are inmates encouraged to commend a correctional officer in writing when he/she sees a favorable act towards fellow inmates?
4. How can mental health clients be encouraged to file a complaint or a commendable act?

Pls. acknowledge that you have received my questions before the next meeting.

Wesley K. Mukoyama

Blue Ribbon Commission Member

On Nov 20, 2015, at 5:29 PM, Schroeder, Rhonda <Rhonda.Schroeder@cob.sccgov.org> wrote:

Hello,

Supplemental Information has been added to the agenda to Item No. 5 (Commission Purpose and Mission) of the November 21, 2015 Blue Ribbon Commission on Improving Custody Operations meeting.

These documents are now available on the web

at: http://sccgov.iqm2.com/Citizens/Detail_Meeting.aspx?ID=6996

Item No. 5 – Direct link (Determine scope of Commission's purpose and mission): http://sccgov.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=SplitView&MeetingID=6996&MediaPosition=&ID=79154&CssClass=


*Attachment: Timeline for BRC

*Attachment: Inaccurate Assertion by Mercury News Report November 2015


These documents are also attached to this message as PDF documents. If you have any problems accessing the information, please feel free to contact our office.

Rhonda Schroeder
Division Manager, Board Operations
Office of the Clerk of the
Board of Supervisors
408-299-5067
408-938-4525 FAX
<image001.png>

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<Inaccurate Assertion by Mercury News Report Nov 2015.pdf><Timeline for BRC 112115.pdf>

Wesley Kazuo Mukoyama LCSW

Retired

From: Erin O'Neill [REDACTED]
Sent: Monday, November 23, 2015 10:44 AM
To: CustodyOpCommission
Subject: Questions for IA

Hello,

Here are my questions for IA:

- How do inmates know that they can file a complaint?
- Is there a phone number to IA on the telephone jail list?
 - Is there always someone there to pick up the phone?
 - Is every call returned (or inmate visited) when a call is received?
 - Is any information relayed by jail staff that inmates may file a complaint?
 - How does an inmate find out about the current system (jail observer program)?

What is the process to file a complaint?

- Are inmates given complete privacy to file a complaint?
- Are the phones bugged?
- Are the phone numbers tracked?
- How are follow up interviews with IA conducted?
- What is the turn-around time between receipt of a complaint (either by phone or mail), and the time in which an IA officer goes to see the complainant in custody?
- What information is captured about the inmate when a complaint is filed? (DOB, race, gender, disability, current mental illness, history of mental illness, etc.)
- Are these interviews recorded?
- If so, where are they stored, and for how long?

How are the complaints with recorded interviews tracked?

- What software or database does the County currently use to track complaints and data regarding complainants and deputies?
- What is the current system for creating an early warning system for problem officers?
- What other allegations other than Force have been captured for the last five years?
- What are the findings?
- What has the discipline been?
- Are the demographics of all officers already in IA Pro including: age, race, gender, CIT trained, education level, years of experience, and any complaints against inmates (specifically ones with a history of mental illness)?

Investigations

- Are all complaints investigated?
- If not, why not?
- What is the process for closing a case preliminarily on the front end versus ensuring a complete investigation is done?

- Who makes this determination?
 - Who must "sign off" on each completed investigation or closed case?
 - How are allegations analyzed? Is there a Duty Manual?
 - What do investigators currently review to complete a thorough investigation?(Medical docs, reports, interview witness inmates and witness deputies)
 - What is the process for interviewing deputies? (What material do they review prior to their interview, is there a union rep present, etc.)
 - What is the time frame for completing investigations?
- What is the current policy if an investigator is found to have lied in their IA interview?
- Are all in-custody deaths automatically investigated by IA? If not, why not?

Thanks,

Erin

From: [REDACTED]
Sent: Monday, November 23, 2015 6:22 PM
To: Schroeder, Rhonda; CustodyOpCommission
Cc: jeff.smith@ceo.sccgov; Tracey Kaplan; meg.oneill@lawfoundation.org
Subject: Blue Ribbon Commission agenda items/ non-agenda items

Dear Commission members,
At the meeting Saturday, November 21, several things came up I'd like to comment on.

I am afraid one of the root causes for the creation of the Commission is being overlooked. A young man who was mentally ill died at the hands of the guards. It is the mentally ill who are the most vulnerable and who need the most protection and in my view. This is why the Commission was formed. I feel this directive has been lost, and now the jail in general is your focus, instead of studying what can be done to protect those who are mentally ill and incarcerated.

I was also very unhappy that the comments by the County Executive, Jeff Smith, seemed to be ignored. He kept saying he felt the Commission could, and should, look at some of the same things the consultant is doing because the Commission can demand a much higher standard than the consultant may recommend. He kept saying, "You can do more." Everyone ignored him, I felt.

1. The fact that the amendment made by Rick Callendar to Judge Cordell's motion to include the mentally ill and their treatment was voted down distressed me greatly.

And, while those of us in the audience couldn't hear clearly who was voting yes or no, I was shocked that several representatives from the mental health community voted no. Shocked!

I am also distressed that it isn't required that people state clearly, instead of mumbling, their vote so those of us in the audience can hear how people vote.

In response to this amendment's failure to pass, Judge Manley proposed a motion that another Commission to look exclusively at the mentally ill inmates be appointed by the BOS and that it comes as a recommendation from the Commission. I certainly hope that all of you support this, and in doing so, remember why you are sitting there. You have a responsibility to the mentally ill community. I hope each and every one of you support it.

While I assume all of you must know how the system works, I felt like some of you weren't getting it. Especially the person (I can't remember who, though I think it was Mr. Lee) who commented on MY comment that I had hoped, in the past, my son would be arrested so he could get help. I hope all of you know that no hospital will admit someone who they think is not a danger to himself or others. And that is a very subjective and narrow decision. There is no way to force people to take their meds and/or stop self medicating with street drugs except through the judicial system. Going to jail, and hopefully being seen in Judge Manley's courtroom is often the ONLY way to get help.

With adequate resources people could be in and out of jail in a week or so and the 106 people sitting in jail right this minute waiting for a bed in a treatment program would not be in jail any more, reducing the load on everyone. Why did you all ignore this statement from Judge Manley? You could make a difference here and you chose not to.

2. You will be addressing the issue of oversight at the next meeting. I do believe we need an independent auditor for the jail. But that won't help the inmates inside, who are being threatened or abused, or killed by guards. There is no way someone - especially someone who is mentally ill and probably pretty paranoid anyway - is going to trust that any complaint they make won't get back to the guards. Even I don't believe there can be a safe way to complain. I know very

well that a guard could assume a certain inmate complained, even if they hadn't, and take revenge on him. I think it would be incredibly naive to think otherwise. If I were a parent of an inmate, I would hesitate to complain if I were aware of problems, because I would be concerned about retribution against my son.

3. I heard someone mention there is a constitutional right for inmates to have programs while in jail. On the eighth floor, at the times my son was in jail there were never any programs. I specifically called and talked to the social worker on duty, more than once, asking if there were 12 step meetings, or if a chaplan could visit, or anything at all could be done to break up the daily minimum 23 hours (sometimes more) of solitary confinement that those in the mental health floor experience. My son, though stable on his medications was seriously depressed. Even a healthy person, locked up all day every day with no human contact would be depressed, angry, or crazy even. I've mentioned this situation several times. No one seems alarmed at this.

I am. I feel this is a violation of constitutional rights. I view it as cruel and unusual punishment. Why are none of the mental health advocates on the Commission bring this up?

If the Commission refuses to address these issues, then I fervently hope you will ask the BOS to create a new commission that will take some substantive action for the mentally ill.

Thank you all for your time and efforts, [REDACTED]

From: Tracey Kaplan <tkaplan@mercurynews.com>
Sent: Monday, November 23, 2015 6:46 PM
To: [REDACTED]
Cc: Schroeder, Rhonda; CustodyOpCommission; Smith, Jeff; meg.oneill@lawfoundation.org
Subject: Re: Blue Ribbon Commission agenda items/ non-agenda items

Very helpful. Thanks so much.

On Mon, Nov 23, 2015 at 6:22 PM, [REDACTED] wrote:

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Thank you all for your time and efforts,

[REDACTED]

--

Warm regards,
Tracey Kaplan
San Jose Mercury News Staff Writer
email: tkaplan@mercurynews.com
cell/text: 831.227.7166

From: Christine Clifford [REDACTED]
Sent: Tuesday, November 24, 2015 8:03 AM
To: Schroeder, Rhonda
Subject: RE: Please send questions here custodyopcommission@cob.sccgov.org

Hello again Rhonda,

I'm afraid I missed something here along the way. Is there a specific site to check into for information and postings? I have only received a few from you and a few other people in your office. I believe we were supposed to receive a copy of the grievance procedures the DOC uses so we could send in questions to a site/Judge Cordell prior to the next meeting? It's difficult to formulate questions when you don't know the particulars of the written procedure. Can you let me know if there is a site I am supposed to be checking and/or when we might expect to receive these procedures?

Thank you,

Christine Clifford

From: Schroeder, Rhonda [mailto:Rhonda.Schroeder@cob.sccgov.org]
Sent: Saturday, November 21, 2015 1:51 PM
To: CustodyOpCommission <CustodyOpCommission@cob.sccgov.org>
Cc: Doyle, Megan <Megan.Doyle@cob.sccgov.org>
Subject: Please send questions here custodyopcommission@cob.sccgov.org

The appropriate email box is: custodyopcommission@cob.sccgov.org


All correspondence should be sent to this email box and then will be distributed on a daily basis to the commission. Items are sent as a BCC to prevent possible Brown Act violations.

Please let me know if you have any questions,

Best regards,

Rhonda Schroeder
Division Manager, Board Operations
Office of the Clerk of the
Board of Supervisors
408-299-5067
408-938-4525 FAX

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From: Martha Wapenski <Martha.Wapenski@sheriff.sccgov.org>
Sent: Tuesday, November 24, 2015 3:25 PM
To: CustodyOpCommission
Cc: Schroeder, Rhonda; John Hirokawa
Subject: RE: Please send questions here custodyopcommission@cob.sccgov.org
Attachments: 3 GO on Complaint Process.pdf; 1 Internal Affairs Policy.pdf; 2 Inmate Grievance Policy.pdf

Rhonda,
Attached are copies of the internal affairs, complaint process, and inmate grievance policies requested by Judge Cordell for the Blue Ribbon Commission.

Martha Wapenski
Director of Administrative Services
Office of the Sheriff
County of Santa Clara
55 West Younger Avenue
San Jose, CA 95110
(408) 808-4913

From: CustodyOpCommission [mailto:CustodyOpCommission@cob.sccgov.org]
Sent: Tuesday, November 24, 2015 3:00 PM
To: Martha Wapenski
Subject: FW: Please send questions here custodyopcommission@cob.sccgov.org

Do you have a copy of the DOC grievance procedures that we would be able to send to the Blue Ribbon Commission?

Rhonda
(408) 299-5067



From: Christine Clifford [REDACTED]
Sent: Tuesday, November 24, 2015 8:03 AM
To: Schroeder, Rhonda <Rhonda.Schroeder@cob.sccgov.org>
Subject: RE: Please send questions here custodyopcommission@cob.sccgov.org

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I'm afraid I missed something here along the way. Is there a specific site to check into for information and postings? I have only received a few from you and a few other people in your office. I believe we were supposed to receive a copy of the grievance procedures the DOC uses so we could send in questions to a site/Judge Cordell prior to the next meeting? It's difficult to formulate questions when you don't know the particulars of the written procedure. Can you let me know if there is a site I am supposed to be checking and/or when we might expect to receive these procedures?

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Christine Clifford

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COUNTY OF SANTA CLARA

Department of Correction Policy and Procedure Manual	Policy Number: 1.19 No. of Pages: 11 Date of Origin: 01 Mar 1992 Date Revised: 22 May 2009
Chapter: Administration, Organization and Management	Subject: Internal Affairs Unit
Supersedes: Policy 1.19 Internal Affairs Unit, rev. 12/18/2001	Distribution: Unrestricted
References: California Government Code Sections 3300-3311 California Civil Procedure Section 128.5 California Penal Code Sections 118, 832.5, 832.7 & 832.8 Evidence Code Sections 1043, 1044 & 1045 Attorney General Opinion 05-903	
Signature of Issuing Authority  Edward C. Flores, Chief of Correction	Current Policy Review Date of Review: 22 May 2009 Revisions Made: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

POLICY: It is the policy of the Department of Correction to receive, record, and investigate all complaints alleging misconduct on the part of Department personnel.

PURPOSE: To establish Department policy and operational procedures for the investigation of all matters and complaints alleging misconduct on the part of Department personnel.

APPLICABILITY: This policy applies to all Department of Correction employees.

RESPONSIBILITY: It is the responsibility of all employees of the Department of Correction to adhere to this policy.

DEFINITIONS: Allegation: A claim or assertion of misconduct on the part of Department personnel. Allegations may be written or oral.

Complainant: The person making a complaint against Department personnel.

Complaint: An allegation that misconduct may have been committed by Department personnel.

Finding: The investigator's end work product of an investigation. The investigator arrives at a finding by applying the facts developed by the investigation to the allegation.

PROCEDURE:

- I. Organization and Authority
 - A. The Internal Affairs Unit will be responsible for assignment of I.A. case numbers. Allegations and complaints must be reviewed by the I.A.U. Commander or his/her designee, prior to the issuance of any I.A. case number.
 - B. The Internal Affairs Unit will be responsible to, and report directly to, the Chief of Correction.
 - C. The Internal Affairs Unit will be concerned with serious violations on the part of Department personnel, as determined by the Chief of Correction. Investigations of any crime in a Department of Correction facility will be the responsibility of the Sheriff's Office Jail Investigation Unit. In these cases, the Internal Affairs Unit may conduct a parallel administrative investigation.
 - D. The Internal Affairs Unit will attempt to establish innocence or guilt by the preponderance of the evidence obtained. The Internal Affairs Unit has the responsibility and authority to conduct thorough and impartial investigations or directly assist other Divisions in the investigation of the following situations or circumstances, and to make appropriate reports:
 1. Any allegation or complaint of conduct made by any person against the Department or any of its personnel.
 2. Any alleged or suspected breach of integrity or case of moral turpitude.
 3. Any situation in which a person has been seriously injured or killed by any member of the department.
 - a. The criminal investigation will be the responsibility of the Sheriff's Office Jail Investigation Unit or sworn Sheriff's Office personnel assigned to the Department of Correction, unless the incident occurs in another police agency's jurisdiction.
 - b. The Internal Affairs Unit will be responsible for the administrative investigation.
 - E. When, during a course of an Administrative Investigation, it becomes apparent that a criminal violation has occurred, the IAU Commander will be advised of the details and forward the complaint to the Sheriff's Office Jail Administration, or to the appropriate agency of jurisdiction.
 - F. A concurrent investigation by both Sheriff's Office criminal investigators and Department of Correction administrative investigators may, upon occasion, be desirable. The criminal investigation will determine if there is a law violation, and

opposing party. Frivolous findings will be supported by a detailed explanation.

III. Receiving Complaints at the Division Level

- A. During normal business hours, should a complaint be received by a division commander/unit manager and it is of such a minor nature that she/he can rectify the situation to the mutual satisfaction of both parties, no further action need be taken. The complainant will be advised of the disposition and informed that they may contact the Internal Affairs Unit directly if they have further concern.
- B. After normal business hours, all complaints will be referred to the watch commander at the involved facility.
 - 1. If the complaint is of such a serious nature that immediate action is required, the watch commander will, after receiving authorization from the division commander, advise the IAU commander to initiate an immediate investigation into the allegation.
 - 2. If the complaint is of a criminal nature, the watch commander will advise the on-duty Sheriff's Office personnel and complete a "Sheriff's Office Referral Form."
 - 3. If the complaint does not require immediate action, the watch commander will:
 - a. Record the complainant's name, address and telephone number and forward that information, along with a synopsis of the allegation, to the division commander for review.
 - b. Assign a supervisor to conduct a preliminary inquiry to determine additional facts which will be presented to the division commander.
 - 1) The watch commander will advise the reporting party that she/he will be contacted by an investigator on the next working day.
 - 2) The assigned investigator will, on the next working day, make contact with the reporting party and obtain a complete recorded statement. If the aggrieved person is not the reporting party, a recorded statement will be obtained from both parties. For persons not in custody, the taking and recording of the statement may be completed over the telephone.
 - c. If the complaint is of such a minor nature that the watch commander can rectify the situation to the mutual satisfaction of both parties, no

commander/unit manager or Assistant Division Commander on the date received.

3. The division commander/unit manager or assistant division commander of the involved personnel will be advised of the allegation in all cases, unless deemed confidential by the Chief of Correction.
4. In all cases, except where disclosure would adversely affect the investigation or identify a complainant who wishes to remain anonymous, once it has been determined a formal investigation is warranted, the involved personnel will be made aware of the investigation, that a complaint has been received and that they are the subject of an investigation. This will be accomplished by providing them with a statement of allegations setting forth the specific rules, policies or procedures violated, and listing a factual basis for the complaint. The involved personnel will be afforded the opportunity to prepare written reports, secure witnesses and gather any other information pertinent to the complaint.

V. Investigative Process

- A. The assigned investigator will contact the reporting party and complainant(s) and take a recorded statement.
- B. The assigned investigator will obtain a signed "Consent to Release Medical Information Form" from the complainant(s) if any injury is alleged, and obtain medical and/or mental health records concerning the incident.
- C. The assigned investigator will obtain a signed, "Informational Advisory Form." This form will be read verbatim to the complainant by the investigator taking the complaint (Penal Code Section 118).
- D. The assigned investigator will obtain copies of all records related to the incident, including, but not limited to, the following:
 1. Booking records
 2. Employee Reports
 3. Crime Reports
 4. Post Logs
 5. Activity Logs
 6. Staffing Reports
 7. Custody and housing records
- E. The assigned investigator will determine if any video/audio recordings were made and collect all video/audio tapes. If policy requires video taping and one was not done, attempt to determine the reasons why a video taping was not done.

1. The division commander/unit manager will forward the final investigation to the Assistant Chief, who will concur or not concur with the finding and recommended discipline. If the Assistant Chief does not concur with the finding, reasons for this conclusion will be so documented.
- B. Upon review by the division commander/unit manager, one of the following recommendations will be made:
1. Minor Violation: A violation in which the Department would not normally seek discipline.
 - a. The case will be returned to the supervisor, who will provide the employee with:
 - 1) Documented oral counseling
 - 2) Training, coaching, mentoring.
 2. Major Violation: A sustained violation in which the Department would normally seek disciplinary action up to, and including, termination.
- C. The Assistant Chief will forward the final investigation to the Chief of Correction, who will determine and approve the findings of the investigation.
1. This process is to be completed as part of the time requirement for completion of the final investigation.
- D. Upon the completion of the investigation, the Chief of Correction or designee will notify the complaining party of the investigation disposition per Penal Code Section 832.7.
1. The completed investigation will be returned to the Internal Affairs Unit and maintained in accordance with applicable law.
 2. The affected employee(s) will be notified by the Chief of Correction or designee of the final decision upon completion of the investigation.
 3. The affected employee's division commander/unit manager will be notified of the decision of the Chief of Correction.

VII. Investigation Timelines

- A. It will be the goal of this Department to complete administrative formal investigations in a timely manner and in accordance with California Government Code.
1. Every reasonable effort will be made to comply with the time limits indicated by the Public Safety Officers Procedural Bill of Rights Act or

VIII. Internal Affairs Unit Record Keeping

A. The Internal Affairs Unit will be responsible for:

1. A log of IAU case numbers
2. Tracking investigations
3. Completed cases and completion dates
4. Findings
5. Sheriff's Office Criminal Referral Log
6. Frivolous Log
7. IAU Preliminary Inquiry File

IX. Statistical Reports


A. To assist in Department management, the Internal Affairs Unit will provide the Chief of Correction with an annual statistical report detailing the information listed below:

1. Type and nature of complaints
2. Disposition
3. Any clearly established patterns as to teams or facilities generating complaints.

X. Policy Review

A. All Department policies will be reviewed by the Professional Compliance and Audit Unit.

COUNTY OF SANTA CLARA

Department of Correction Policy and Procedure Manual	Policy Number: 14.05 No. of Pages: 8 Date of Origin: 01 Aug 1994 Date of Revision: 13 Aug 2008
Chapter: Inmate Rights	Subject: Inmate Grievance Process
Supersedes: Policy 14.05, Inmate Grievances, dated 07/24/06.	Distribution: Unrestricted
References: ACA 3C-22, 3E-01, 3E-11, 5D-06, California Code of Regulations, Title 15, Chapter 1, Article 8, Section 3084.4, and Subchapter 4, Article 6, Section 1073, 42 U.S.C. Section 1997e	
Signature of Issuing Authority  Edward C. Flores, Chief of Correction	Current Policy Review Date of Review: 13 Aug 2008 Revisions Made: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

POLICY: It is the policy of the Department of Correction to provide a viable complaint process to all inmates, which will allow systematic redress of conditions relating to confinement.

PURPOSE: To describe the inmate grievance and appeal process as prescribed under Title 15 of the California Code of Regulations. To encourage internal problem-solving at the level of most direct inmate contact, offer Division Administrators a means for continuous review of administrative policy and procedure, and provide written documentation of inmate complaints.

DEFINITIONS: Inmate Grievance: An inmate complaint arising from circumstances or conditions relating to his or her confinement.

Inmate Grievance Form: A form that enables inmates to file grievances and complaints.

Grievance Control Number: A sequential number assigned to each grievance for tracking purposes.

Grievance Coordinator: An employee responsible for ensuring timely collection, tracking, distribution, and response to all inmate grievances received within or pertaining to his or her assigned Complex.

- F. Resolution of a grievance is expected at the lowest appropriate staff level. Training on the effective use of the grievance process and how to resolve matters at the lowest possible staff level is provided to staff during their on-the-job core training. The employee on duty, the shift Sergeant/Supervisor, Lieutenant and the Division Commander or designee, in that order, reviews the written grievances.
 - G. Inmate grievances will be issued a grievance control number for tracking purposes by the Grievance Coordinator.
- II. Processing of Inmate Grievances by Staff
- A. Informal resolution between inmates and employees is strongly encouraged, both to provide immediate response to the inmate and to avoid overburdening the grievance process.
 - B. If the employee cannot resolve the complaint or problem, and resolution cannot be accomplished through the available Sergeant/Supervisor, an Inmate Grievance Form shall be provided to the inmate. If the grievance pertains to a particular employee, the inmate may submit the grievance to another employee.
 - 1. Employees will not deny a grievance form to an inmate.
 - 2. Employees will not destroy or fail to process a completed grievance form.
 - 3. Employees will not discuss the specific content of a grievance filed by one inmate with another inmate or show an inmate's grievance to another inmate.
 - C. Upon receipt of a grievance form, it is the employee's responsibility to review the complaint and attempt to handle the matter whenever possible. The employees will:
 - 1. Check the form for completeness (e.g. name, full booking number, and legible writing), sign and date the form, and return the pink copy (initial receipt) to the inmate.
 - 2. Contact the Sergeant/Supervisor immediately when a grievance is of an emergency nature and indicates a threat to the health or welfare of an inmate.
 - 3. Note directly on the form the result of any investigation completed and details of the actions taken to resolve the grievance.
 - 4. Forward all grievance forms to the Sergeant/Supervisor whether or not the grievance has been resolved. Only the PINK copy of the form should be

a medical issue, the Grievance Coordinator will forward the grievance to the appropriate medical manager for response.)

IV. Processing of Inmate Grievances by the Grievance Coordinator

- A. It is the Grievance Coordinator's responsibility to collect, review and process all grievance forms for final disposition. Sergeants/Supervisors must forward all grievances to the Grievance Coordinator for processing and tracking. The Grievance Coordinator will:
1. Issue a tracking number, from the Department's Jail Information System, to every grievance received. The automated numbering system will issue a number and calculate a due date based on the date the grievance was received. The Grievance Coordinator will log the following information into the computer tracking system:
 - a. Grievance date
 - b. Complaint category
 - c. Receiving employee's name, badge and team
 - d. Grievor employee's name if applicable
 2. Assess whether or not the grievance is ready for review by the Division Commander/designee or requires further response from the team lieutenant, Support Services staff, Medical/Mental Health staff, Programs staff, Administrative Booking staff or any other county agency/division and process as follows:
 - a. If the grievance is ready for review (e.g. marked "resolved") by the Division Commander/designee, forward the Original Grievance form to the Division Commander/designee for review, final disposition and signature. The Division Commander/designee can concur, modify, or reverse the decision.
 - b. If the grievance requires further response from other staff, make a copy of the Grievance form and forward the Original Grievance form to the appropriate staff for response. Once a response is received, forward the Original Grievance form to the Division Commander/designee for review, final disposition and signature.
 3. Track the Grievances until final disposition to ensure the inmate receives a final disposition within 30 days or as soon as possible. Under some limited circumstances, a grievance may require additional time to resolve. Such circumstances may include:

- d. Cannot be understood or are obscured by irrational language or excessive documentation not related to the subject matter of the grievance.
- B. The Division Commander may impose grievance sanctions on inmates who he or she has determined to be abusing the grievance process.
1. Imposed sanctions should be commensurate to the degree of the abuse. Sanctions may include, but are not limited to:
 - a. Suspension of an inmate's ability to file grievances for a stated period of time not to exceed six months.
 - b. Limitations on the number of grievances that an inmate may file for a stated period of time not to exceed six months.
 2. Whenever the Division Commander imposes sanctions, he or she will notify the inmate in writing, indicating the reasons for the sanctions and noting the conditions of the imposed restrictions, including any time periods associated with those restrictions.
 3. Grievances filed in conflict with the restrictions of imposed sanctions will be returned unprocessed and not be subject to the appeals process.
 4. Inmates with imposed sanctions will normally be allowed to file grievances of an emergency nature, as determined by the Division Commander, separate from the imposed conditions of the sanctions. However, abuses involving filing emergency grievances may lead to additional restrictions being imposed.

VII. Confidential Letters

- A. An inmate may elect to write a confidential letter directly to any Division Commander or the Chief of Correction. The address is posted in each housing unit and Inmate Rulebook.
- B. Letters addressed to the Chief of Correction will be read and forwarded to a Division Commander for investigation and response. The Chief's staff will prepare a letter to the inmate acknowledging receipt of the letter and notifying the inmate of who is responsible for the response.



**COMPLAINTS BY MEMBERS OF THE PUBLIC
GENERAL ORDER #14.00**

Adopted: 07/07/2010
Replaces: G.O. #14.00 dated 04/15/08

Updated: 02/22/2010
Reviewed: 02/22/2010

POLICY

The Sheriff's Office shall receive, document, and investigate as required all allegations of misconduct or neglect of duty involving its personnel brought by members of the public. The investigation of complaints will include those which are anonymous or are brought through a representative of the complainant. However, if an anonymous complaint cannot be verified by other evidence, or the representative refuses to identify the complainant, the complaint will not result in a sustained finding unless there is independent evidence to support such a finding.

PROCEDURE

- A. Complaints by members of the public involving Sheriff's Office personnel may be made:
 - 1. In person, by mail or by telephone to any staffed Sheriff's Office Facility.
 - 2. In person to any on-duty Sheriff's Office employee/supervisor.
 - 3. Via the Sheriff's Office website, (internet).
 - 4. Through the DOC using an Inmate Request Form.
 - 5. To a trained commissioner, member of the staff or volunteer of the Santa Clara County Human Relations Commission.
 - 6. County E.O.D.
- B. Forms for members of the public to make written complaints involving personnel of the Sheriff's Office will be available during business hours at the Internal Affairs Unit,

Headquarters Patrol Operations Desk, West Valley Substation, South County Substation and at all Court security screening stations.

- C.** During normal business hours, all complaints by members of the public alleging misconduct on the part of Sheriff's Office personnel should be referred directly to the Internal Affairs Unit.
- D.** During other than normal business hours, all complaints by members of the public will be referred to the highest ranking officer on duty in the involved division.
- E.** If the complaint does not require immediate action, the supervisor will complete an Internal Affairs Unit Complaint Form, obtaining the significant details from the complainant. The supervisor will advise the complainant that he or she will be contacted by the Internal Affairs Unit on the next business day.
- F.** If the complaint is of such a serious nature that immediate action is required, the supervisor will contact his or her division commander via the chain of command. The division commander will notify the Internal Affairs Unit to initiate an investigation into the allegation.
- G.** The Internal Affairs Unit will document, and will assign a tracking number, to all complaints by members of the public except where:
 - 1. the complaint does not involve an employee or volunteer of the Sheriff's Office,
 - 2. the complaint is frivolous on its face and appears to be the product of mental disease or disorder and no additional action is justified,
 - 3. the complaint does not on its face allege misconduct or neglect of duty which violates law or procedure and no additional action is justified,
 - 4. the complainant disagrees with existing Sheriff's Office policy only and no additional action is justified.
- H.** The Internal Affairs Unit shall investigate allegations of misconduct or neglect of duty from members of the public as set forth in these General Orders.
- I.** In all cases where a complaint by a member of the public is received, the complainant shall be notified by mail by the Internal Affairs Unit of the final disposition of the complaint unless the complainant did not provide a mailing address. If the complainant cannot be notified by mail and the complainant provided a phone number, the Internal Affairs Unit will attempt to notify the complainant by phone of the final disposition of the complaint. Those complainants whose complaints were not documented and investigated will be notified that their complaint resulted in "no finding." This section

does not apply to complaints filed against one County employee by another County employee.



LAURIE SMITH
SHERIFF



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

Adopted: 07/07/2010
Replaces: G.O. #14.01 dated 4/15/08

Updated: 02/22/2010
Reviewed: 02/22/2010

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**

From: LaDoris Cordell <[REDACTED]>
Sent: Tuesday, November 24, 2015 5:18 PM
To: CustodyOpCommission
Cc: Martha Wapenski
Subject: getting back to you re DOC documents requested for distribution to the commission
Attachments: ladoris.vcf

yes, rhonda. please do send these documents out to the commission. --- judge c.

CustodyOpCommission wrote:

>
> Hi Judge Cordell,
>
> Attached are copys of the documents sent over by the Sheriff's office
> in response to the Commissions' request. It is my understanding that
> you would like to review these before I send them out to the commission?
>
> Rhonda
>
> (408) 299-5067
>
> Description: Description: cid:image001.png@01CCA5EA.9530DEC0
>
> *From:* Martha Wapenski [mailto:Martha.Wapenski@sheriff.sccgov.org]
> *Sent:* Tuesday, November 24, 2015 3:25 PM
> *To:* CustodyOpCommission <CustodyOpCommission@cob.sccgov.org>
> *Cc:* Schroeder, Rhonda <Rhonda.Schroeder@cob.sccgov.org>; John
> Hirokawa <John.Hirokawa@sheriff.sccgov.org>
> *Subject:* RE: Please send questions here
> custodyopcommission@cob.sccgov.org
>
> Rhonda,
>
> Attached are copies of the internal affairs, complaint process, and
> inmate grievance policies requested by Judge Cordell for the Blue
> Ribbon Commission.
>
> Martha Wapenski
>
> Director of Administrative Services
>
> Office of the Sheriff
>
> County of Santa Clara
>
> 55 West Younger Avenue
>

> San Jose, CA 95110
>
> (408) 808-4913
>
> *From:* CustodyOpCommission [mailto:CustodyOpCommission@cob.sccgov.org]
> *Sent:* Tuesday, November 24, 2015 3:00 PM
> *To:* Martha Wapenski
> *Subject:* FW: Please send questions here
> custodyopcommission@cob.sccgov.org
> <mailto:custodyopcommission@cob.sccgov.org>
>
> Do you have a copy of the DOC grievance procedures that we would be
> able to send to the Blue Ribbon Commission?
>
> Rhonda
>
> (408) 299-5067
>
> Description: Description: cid:image001.png@01CCA5EA.9530DECO
>
> *From:* Christine Clifford [REDACTED]
> *Sent:* Tuesday, November 24, 2015 8:03 AM
> *To:* Schroeder, Rhonda <Rhonda.Schroeder@cob.sccgov.org
> <mailto:Rhonda.Schroeder@cob.sccgov.org>>
> *Subject:* RE: Please send questions here
> custodyopcommission@cob.sccgov.org
> <mailto:custodyopcommission@cob.sccgov.org>
>
> Hello again Rhonda,
>
> I'm afraid I missed something here along the way. Is there a specific
> site to check into for information and postings? I have only received
> a few from you and a few other people in your office. I believe we
> were supposed to receive a copy of the grievance procedures the DOC
> uses so we could send in questions to a site/Judge Cordell prior to
> the next meeting? It's difficult to formulate questions when you don't
> know the particulars of the written procedure. Can you let me know if
> there is a site I am supposed to be checking and/or when we might
> expect to receive these procedures?
>
> Thank you,
>
> Christine Clifford
>
> *From:* Schroeder, Rhonda [mailto:Rhonda.Schroeder@cob.sccgov.org]
> *Sent:* Saturday, November 21, 2015 1:51 PM
> *To:* CustodyOpCommission <CustodyOpCommission@cob.sccgov.org
> <mailto:CustodyOpCommission@cob.sccgov.org>>
> *Cc:* Doyle, Megan <Megan.Doyle@cob.sccgov.org
> <mailto:Megan.Doyle@cob.sccgov.org>>
> *Subject:* Please send questions here
> custodyopcommission@cob.sccgov.org

> <mailto:custodyopcommission@cob.sccgov.org>
>
> The appropriate email box is: custodyopcommission@cob.sccgov.org
> <mailto:custodyopcommission@cob.sccgov.org>
>
> All correspondence should be sent to this email box and then will be
> distributed on a daily basis to the commission. Items are sent as a
> BCC to prevent possible Brown Act violations.
>
> Please let me know if you have any questions,
>
> Best regards,
>
> Rhonda Schroeder
>
> Division Manager, Board Operations
>
> Office of the Clerk of the
>
> Board of Supervisors
>
> 408-299-5067
>
> 408-938-4525 FAX
>
> Description: Description: Description:
> cid:image001.png@01CCA5EA.9530DEC0**
>
> *NOTICE: This email message and/or its attachments may contain
> information that is confidential or restricted. It is intended only
> for the individuals named as recipients in the message. If you are NOT
> an authorized recipient, you are prohibited from using, delivering,
> distributing, printing, copying, or disclosing the message or content
> to others and must delete the message from your computer. If you have
> received this message in error, please notify the sender by return
> email.* **
>
> P *Just so you know, no trees were killed in sending this e-mail but
> many electrons and some silicon were inconvenienced in this process!
> Please help us save the trees and do not print this if avoidable.*
>