

	LANE COUNTY SHERIFF'S OFFICE POLICY	Number: G.O. 3.13
		Issue Date: March 21, 2005
		Revision Date: December 14, 2007; January 23, 2017; May 23, 2017; October 24, 2018
CHAPTER: Organization, Management and Administration		Related Policy: County Administrative Policies Manual, G.O. 3.01 (Sheriff's Office Manual), G.O. 3.06 (Use of Force/Firearms Discharge Review), G.O. 3.14 (External Investigations), G.O. 4.05 (Alcohol and Drugs), G.O. 4.06 (Job Related Harassment), G.O. 4.07 (Sexual Misconduct with Suspects, Inmates or Other Persons), G.O. 6.20 (Types of Discipline), G.O. 6.21 (General Causes of Discipline), G.O. 6.22 (Pre-Discipline Notice), (Supervisor's Internal Investigation Manual), Applicable Labor Agreements
SUBJECT: Internal Investigations		Related Laws: ORS 236.360, ORS 30.285 and ORS 30.287

POLICY: The Sheriff's Office will completely investigate every report of alleged misconduct by employees received from any source. In conducting such investigations, Sheriff's Office objectives will be: (1) to protect the rights of the public; (2) to protect the rights of the named employee; and (3) to preserve the integrity of the Sheriff's Office. Except when public disclosure is required by law, internal investigations shall be treated as confidential.

DEFINITIONS:

1. An internal investigation may be an administrative, criminal, or civil investigation to determine facts related to reports of violation of law, violation of policy, rule, or procedure, or of Sheriff's Office or employee action that has resulted in a tort claim being filed against the Sheriff's Office.
2. An Association investigation is an independent investigation related to Sheriff's Office internal investigations conducted by the Lane County Peace Officer's Association.

RULE(s):

1. Employees may be disciplined for failure to cooperate fully with Sheriff's Office internal investigations. This includes hindering or obstructing the investigation, lying, giving evasive answers or refusing to answer questions that are specifically, directly, and narrowly related to performance of their official duties.

2. Any answers that are given under an order to comply with an internal investigation cannot be used in a subsequent criminal proceeding against an employee, but failure to cooperate fully with the investigation is grounds for discipline up to and including discharge from the Sheriff's Office.
3. Information obtained shall be treated as confidential and shall be disclosed only to the limited extent necessary to sustain a criminal complaint, conviction, or disciplinary action, except as excluded herein, or as required under current law.
4. Assigned investigators shall not abridge employee rights provided by law, labor contract, or general orders.

PROCEDURE:

I. Administrative

- A. An administrative internal investigation may be initiated when a citizen, supervisor or employee reports an allegation of misconduct by an employee or a supervisor within any division of the Sheriff's Office.
- B. All complaints will be in written form, whether by the supervisor taking the complaint or by the reporting party, and signed by the reporting party.
- C. Internal investigations shall be completed as directed by the Chief Deputy.
- D. Any time reliable information is received or discovered that leads the assigned investigator to conclude a crime may have been committed by an employee, the information shall be provided to the Chief Deputy.
 1. The Sheriff and Chief Deputy will decide if a criminal investigation will be initiated.
- E. Normally, if a criminal investigation is initiated, the internal investigation will be suspended and remain suspended until the criminal investigation has been completed. In exceptional circumstances determined by the Sheriff, a separate and independent internal administrative investigation may be conducted concurrent with a criminal investigation.
- F. Rights and protections provided by law, labor contracts, and general orders shall be respected and afforded to the named employee(s) who is the subject of investigation.
 1. Internal investigations shall be handled in a confidential manner. Supervisors and/or command officers privileged to the details of an internal investigation shall not discuss the details of the investigation or

the allegations with anyone but other command officers and then only on a need-to-know basis.

2. Notwithstanding confidentiality, the named employee may authorize the Sheriff's Office to release certain investigative information such as witness names, etc. to their Association/union representative to enable the Association/union to conduct their own independent investigation for purpose of representing their member.
3. Upon written request and in accordance with the LCPOA Contract, the Sheriff's Office will provide the Association/union with a copy of the internal investigation report, interview tapes, and other documents. This information will be provided at the conclusion of the investigation and after the employee has been given notice of the proposed adjudication and discipline.
4. The Association/union shall make every attempt to keep information obtained through independent investigation or provided by the Sheriff's Office confidential. It will not disclose information to Association members except to the extent necessary to provide adequate representation to the accused member.

G. The assigned investigator is appointed the Sheriff's "designee" for the purpose of conducting the investigation and is acting with full authority of the Office of the Sheriff.

1. The Sergeant of the Office of Professional Standards will be the primary assigned investigator.
2. The Sheriff or designee may assign another supervisor as the investigator or an outside investigator if it is believed that is in the best interest of the Sheriff's Office.

H. Chief Deputy or designee will assign a completion date for the investigation based upon number of contacts required, staff availability, complexity of the investigation, etc.

1. Target completion times for most investigations will be under 30 days.
2. The assigned investigator can request an extension by submitting a written request to the Chief Deputy.

I. In the event the Sheriff appoints a Review Board (see G.O. 3.06) concurrent with an internal investigation, the Review Board will assume the duties and responsibilities of the division commander outlined in this order. The assigned

investigator shall report to the Chair of the Review Board for direction related to the case.

- J. The Chief Deputy will be informed of the status of the case on a weekly basis.
- K. When completed, to include disciplinary hearings/discipline documents when applicable, the investigation file will be forwarded to the Chief Deputy for review and filing.

II. Investigation/Investigative Report (See Supervisor's Internal Investigation Manual)

- A. The assigned investigator shall, in a timely manner, notify the named employee they are the subject of an internal investigation via the allegation of misconduct form.
 - 1. The Sheriff or Chief Deputy may delay notification to the named employee and delivery of a copy of the Allegation of Misconduct Form, if the Sheriff or Chief Deputy determines it necessary to protect the integrity of the investigation or to protect the identity of the reporting party and/or witnesses.

III. Allegation of Misconduct Disposition

- A. Based upon a preponderance of evidence, the assigned investigator shall recommend one of the below dispositions for each allegation. In the event of a recommended sustained allegation, the assigned investigator shall also include recommended discipline.
 - 1. EXONERATED – This disposition shall be assigned when the evidence related to the alleged misconduct did occur, but the action was proper and consistent with law, policy, rule, or procedure, or did not rise to the level of discipline.
 - 2. UNFOUNDED -This disposition shall be assigned when the allegation has no basis of fact or has been disproved through the investigation.
 - 3. NOT SUSTAINED -This disposition shall be assigned when there is insufficient evidence to determine if any violation of law, policy, rule, or procedure did occur.
 - 4. SUSTAINED - This disposition shall be assigned when a preponderance of evidence supports that an employee did violate a law, policy, rule, or procedure.

- B. When the investigator completes the investigation and recommends a sustained allegation, the investigator will forward the investigation file to the appropriate individual who has the authority to conduct the disciplinary hearing.
 - 1. The disciplinary hearing will be administered in accordance with General Order 6.22.
- C. When the investigator completes the investigation and determines a disposition other than sustained, the investigator will provide the employee the Adjudication Notice stating such.
- D. Once the employee has received the Adjudication Notice, the investigation file will be forwarded through the chain of command to the Chief Deputy for informational purposes only.
- E. Notice to Reporting Party
 - 1. The Administrative Division assistant shall prepare a letter for the Chief Deputy notifying the reporting party of the results of the investigation. A copy of this letter will be included in the investigative file.
 - 2. The reporting party shall be notified whether his/her allegation of misconduct has been exonerated, unfounded, not sustained or sustained and that appropriate corrective action has been taken, if applicable. For confidentiality reasons the reporting party is not to be informed of specific discipline administered.

IV. Criminal Investigation

- A. Whenever information or other evidence is obtained by any method by this Sheriff's Office that indicates an employee of this Sheriff's Office may be involved in criminal activity, a complete, thorough criminal investigation shall be conducted.
 - 1. Criminal investigation and information gathered shall be releasable to the District Attorney or a court of law for evaluation to obtain a criminal complaint and to assist in prosecution.
 - 2. If at any time the Sheriff determines that the employee under investigation should be placed on administrative leave (See VIII) or terminated in the best interests of the Sheriff's Office, the employee shall be informed in writing that they are being placed on administrative leave with or without pay. Depending upon circumstances, an employee may be required to surrender his/her badge, commission card, and other Sheriff's Office issued equipment.

- B. Whenever possible the investigator assigned to conduct a criminal investigation involving the conduct of an employee shall be an experienced criminal investigator with expertise in that field and should be a supervisor.
 - 1. The assigned Investigator shall follow normal criminal investigative policies and procedures.
 - 2. Criminal investigations shall be completed as soon as reasonably possible.
 - 3. Should an arrest be contemplated, if possible, the jail commanding officer shall be notified in advance of the intended arrest to allow arrangements to be made to ensure the safety of the employee.
 - 4. The Sheriff will be periodically briefed on the progress of the investigation by the Chief Deputy and will be informed immediately of major developments in the case or imminent arrest.
- C. The Sheriff or designee may request that criminal investigations be conducted by an independent law enforcement agency with authority and jurisdiction to do so.
 - 1. A Sheriff's Office supervisor or command officer shall be appointed to serve as liaison with the outside investigating agency.
 - 2. An outside criminal investigator will follow their own agency's case number, reporting, and filing procedures.
 - 3. In the event an outside agency is requested to conduct the investigation, the assigned investigator(s) is empowered by the Sheriff to serve as a representative of this Sheriff's Office and shall be granted the same cooperation and courtesy afforded an investigator from this Sheriff's Office.

V. Civil Liability Investigations

- A. A Civil Liability investigation will be conducted any time a tort claim is received alleging damages resulting from any Sheriff's Office rule, policy, procedure, or action by any member of the Sheriff's Office or when there is reason to believe a tort claim will be made.
 - 1. The Sheriff will appoint an investigator and direct him/her to report to the County Counsel for direction.
 - 2. To ensure civil liability investigations are protected attorney/client communications, civil liability investigations will be under the direction of the County Attorney.

3. Information and reports related to the civil investigation is the work product of the County Counsel's Office and will only be shared with the Sheriff or others with a need to know within the confines of the Attorney/Client relationship.
- B. In the event a tort claim is received that alleges employee criminal conduct or violation of Sheriff's Office policy, rules, and procedures not previously investigated, the Sheriff may also initiate a criminal or administrative investigation.
- C. Administrative and criminal investigations may be conducted concurrent with or subsequent to any civil liability investigation.

VI. Legal Representation

- A. The County acknowledges its legal responsibility to indemnify its officers, employees, and agents to the extent prescribed by Oregon Revised Statutes.
 1. The County shall indemnify and defend its officers, employees, and agents against demands, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty, unless the County determines that acts or omissions alleged involve malfeasance by the officers, employees, or agents, or willful or wanton neglect of duty.
 2. Persons provided with defense and indemnity by the County shall cooperate fully with the County and counsel. If a person fails to cooperate fully or acts in any way that prejudices the defense of a claim of demand, the County may at any time refuse to provide, or may withdraw defense or immunity.
- B. The County will not indemnify nor defend any Sheriff's Office member who is the subject of an open internal or external criminal investigation.
 1. Persons have the right, at their own expense, to be represented by independent counsel.
 3. There are limited circumstances, such as conflict of interest, in which the County may agree to pay for a person's independent counsel. These determinations will be made on a case-by-case basis.

VII. Association Investigation

- A. The Association has the right to conduct independent investigations related to Sheriff's Office internal investigations for the purpose of providing adequate representation for the named Association member.

1. The named employee may permit him/herself to be interviewed by the Association and this will not be considered a violation of an order not to discuss the case.
 2. The Association may interview the complaining party and witnesses if these parties (including Sheriff's Office members) are willing to be interviewed. Sheriff's Office members submitting to an Association interview also are not in violation of an order not to discuss the case.
 3. The Association investigator must notify the complaining party, witnesses, and/or Sheriff's Office members they are interviewing that they are conducting an investigation pursuant to representing their Association member and inform these persons they are free to refuse to be interviewed.
- B. The Association is obligated to notify the Sheriff prior to initiating an independent investigation and who the Association investigator(s) is.

VIII. ADMINISTRATIVE LEAVE

- A. Administrative Leave is the temporary removal from the work environment of an employee, with or without pay, pending the outcome of a personnel (internal or criminal) investigation to preserve a safe, orderly and professional work environment.
1. In most cases, Administrative Leave is with pay.
 2. In egregious circumstances Administrative Leave without pay may be implemented by the Sheriff.
 3. The Sheriff has the discretion to place an employee on Administrative Leave at any time.
- B. An employee should be placed in an Administrative Leave status when:
1. The employee is the subject of a criminal allegation.
 2. If the alleged conduct is severe enough to warrant termination if the allegation were to be sustained.
 3. If there is reason to believe the employee may interfere with or have the ability to destroy evidence during an internal investigation.
 4. If the proposed discipline is termination.

- C. Employees will be placed on unpaid administrative leave when:
1. Indicted for a felony.
 2. While incarcerated (including electronic monitoring) for any crime.
 - a. Once an employee is no longer incarcerated, the Sheriff may place the employee on paid administrative leave. If the Sheriff determines that a LCPOA represented employee shall remain on unpaid administrative leave, the Sheriff will consult with LCPOA.
 - i. If LCPOA disagrees with the Sheriff's decision, LCPOA may follow Step 1 and Step 2 Grievance procedures provided in the Collective Bargaining Agreement. LCPOA may not take the grievance to arbitration as the Sheriff has the final decision making authority on whether the administrative leave is paid or unpaid.
- D. The employee should be returned to duty once a reasonable conclusion is made that:
1. Termination is not a potential form of discipline.
 2. The criminal allegation has been adjudicated.
 3. The employee no longer has the ability to interfere with or have the ability to destroy evidence.