

Administrative Investigation Manual

An Investigator's Guide to Conducting an Administrative Investigation



Santa Barbara County Sheriff's Office Professional Standards Unit

Revised June 2017

Contents

Introduction.....	3
Rules of Conduct and Performance.....	5
Requirements for Acceptance/Investigation of Complaints.....	7
Assignment of Administrative Investigations.....	10
Confidentiality of Investigations.....	11
Responsibility for Investigations.....	12
Paid Administrative Leave.....	14
Completion and Submission of Administrative Investigations.....	15
Documentation Format for Administrative Investigations.....	17
Storage of Complaints and Investigative Documentation.....	21
How to Conduct an Administrative Complaint Investigation.....	23
Compliance with POBR.....	30
How to Document an Administrative Investigation.....	35
Applicable Laws and Department Policy.....	38
Disciplinary Due Process (Civil Service Rules & POBR).....	47
Exemplar Investigations.....	74
Example #1: Use of Force.....	77
Example #2: False Arrest & Procedural Problems.....	117
Example #3: Off-Duty Conduct.....	150
Example #4: Violation of Rights and Discourtesy.....	166
Forms and Sample Documents.....	171

Introduction

The Santa Barbara County Sheriff's Office operates for the good of the community we serve. Our agency is expected to provide and maintain professional, ethical, competent and efficient law enforcement services within our communities. As a law enforcement agency, we must be accountable for any acts or omissions of our employees which fail to meet these standards. Specifically, our agency has an obligation to the citizens of our communities, the Office of the Sheriff and our employees to investigate allegations of misconduct and/ or substandard performance by any Sheriff's Office employee. To that end, the Sheriff's Office must provide and follow policies and procedures that instill confidence within our community and our organization, that complaints and allegations of misconduct involving our employees will be thoroughly and objectively investigated.

To accomplish this, the Sheriff's Office adopted and utilizes a formalized personnel complaint investigation policy and protocol. In conducting personnel complaint investigations, our organization is committed to conducting thorough, fair and impartial investigations. In an effort to provide assistance and guidance toward meeting this commitment, the Sheriff's Office developed this Professional Standards Unit Administrative Investigations Manual.

The ultimate goal in conducting administrative investigations is to insure the integrity of the Sheriff's Office, the maintenance of discipline and morale within our ranks and to improve the quality of service we provide to our communities. Furthermore, administrative investigations assist our agency in identifying and addressing the causes of problems, failures and other shortcomings in the manner in which we provide law enforcement services to our communities. In so doing, we are best able to remedy identified deficiencies, take corrective action when appropriate and protect our employees from unwarranted criticism when they perform their duties in an appropriate, lawful and approved manner.

This Administrative Investigations Manual is intended to provide supervisors with information and guidance when tasked with conducting administrative investigations involving sworn and non-sworn Sheriff's Office employees. Although this manual is intended as a guide and source of information, it should not replace input from Sheriff's management and County Counsel, when appropriate or otherwise required.

Sheriff's Office supervisors, managers and any other employee tasked with conducting Professional Standards Unit administrative investigations must seek out and maintain a strong working knowledge of the Public Safety Officers' Procedural Bill of Rights Act, Sheriff's Department policies, Santa Barbara County Civil Service Rules, as well as applicable statutory and case law.

Some of the topics and investigative processes addressed within this manual do not have set procedures. By their very nature, investigations are diverse, fluid and dynamic. Because of this, there is no reasonable way this manual could provide a comprehensive, step-by-step instruction as to how all administrative investigations should be conducted. To the contrary, the Sheriff's Office and the assigned investigator must conduct each investigation in the manner dictated by the overall circumstances and nature of the situation presented within each individual investigation. To that end, this manual only seeks to provide an investigative outline, around which the assigned investigator should conduct their investigation.

Rules of Conduct and Performance

In order to appropriately and effectively provide law enforcement services to our communities, the Santa Barbara County Sheriff's Office must maintain discipline and morale within our organization. In order to accomplish this, we must provide our employees with clear expectations of conduct and performance objectives, informing the employee what is demanded of them in terms of their conduct and performance, as well as the level of discretion they may exercise in helping the department achieve its mission and goals. These expectations are provided to our employees through a number of different sources, including the Sheriff's Mission Statement, the Guiding Principles and our policies.

Performance objectives and conduct expectations may be temporary in nature, seeking to address an impending concern, or to achieve short term goals. On the other hand, they may be permanent, informing all members of the organization what is expected of them in their daily performance and conduct. Permanent performance objectives usually take shape as written policies, rules, orders or procedures. These are long-term statements from the department demanding that our employees perform their duties or conduct themselves in a particular manner when confronted with certain facts and circumstances.

The Sheriff's Office must possess, maintain and disseminate to our employees the basis upon which we establish what constitutes proper or improper conduct and performance. In order for our agency to properly and appropriately discipline its employees, any alleged improper conduct and/or performance should be codified within specific policies, rules, regulations or procedural mandates. When attempting to discipline an employee for misconduct and/or improper performance of duties, the alleged misconduct should be enumerated within, or otherwise addressed by, existing written rules or policies (Sheriff's Office policies and County Civil Service Rules). Doing so will help to avoid or minimize the possibility that the discipline will later be reversed by an administrative body or court. Reversal of discipline is oftentimes the result of an administrative finding that the basis for the discipline did not fit within the principle of the policy/rule, or that the policy/rule was unreasonably vague.

It should be noted that in some instances the specific conduct/performance does not fall within a narrowly articulated policy or rule. In such instances, our agency has a policy that prohibits employees from engaging in conduct that is unbecoming or which discredits our agency, and this policy may be applicable to the allegations being investigated. However, if our agency is to claim the conduct or performance is, by its nature, inconsistent with or in conflict with the duties of our employees, there must be a *nexus* between the alleged conduct and the duties of the employee.

The policies, rules and procedures of our agency must be available to all members so that everyone, whether supervisor or subordinate, operates from the same set of common rules. Furthermore, members of our agency know where they can look if they have any questions or doubts on how they are expected to perform in a given set of circumstances. If the department believes an employee has deviated from those rules, it can point to them and say with certainty that there are rules which call for specified behavior and that the employee did not perform or conduct themselves as was expected and required. The department can then clearly say the employee knew or should have known about the rule and its violation. The Sheriff's Office has written policies, rules and regulations in the form of the Sheriff's Office Policy Manual (Lexipol), Santa Barbara County Civil Service

Rules (CSR), the Law Enforcement Code of Ethics, the Department Mission Statement and guiding principles, written Standard Operating Procedures (SOP), department procedural manuals and divisional directives.

In addition to having a valid rule, it is crucial to insure that the employees who may be subject to discipline for violations of those rules were, or reasonably should have been aware of their content. To accomplish this each employee must be required to familiarize themselves with those rules, so that a claim of ignorance to the rules is itself a violation of them. Of note, on a yearly basis and as documented within their EPR, all employees are required to acknowledge their duty to know and follow all department policies, as well as the location where they can find these policies.

Statutory Requirement for Acceptance and Investigation of Citizen Complaints

Pursuant to Penal Code §832.5, California law requires every law enforcement agency to have a written procedure relating to the acceptance and investigation of citizen complaints. The law states that every person has the right to make a complaint against a peace officer for any improper police conduct. All alleged or suspected violations of law, ordinances, or department rules, regulations, or orders shall be investigated pursuant to department policy. Furthermore, the department must make available to the public a written description of its procedure to investigate a citizen's complaint.

The Santa Barbara Sheriff's Office complies with Penal Code §832.5 via Sheriff's Policy Manual (Lexipol) §1020, which defines a personnel complaint as any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law. A complaint may be generated internally by a member of the department, or externally by a member of the public or other entity that believes misconduct has occurred on the part of a department employee.

With regard to internally generated complaints, it is not necessary for a citizen complaint form to be completed or submitted. Such circumstances could include:

- A department employee or the Executive Staff is lodging the complaint against another department employee.
- A department employee who becomes aware of alleged misconduct shall immediately notify a supervisor.
- Circumstances wherein a supervisor receives credible information from any source alleging significant misconduct of an employee which could result in disciplinary action.
- Anonymous and third-party complaints may be investigated at the discretion and direction of the Sheriff or Undersheriff.

Citizen inquiries about employee conduct which, even if true, would not result in the employee being disciplined may be handled informally by a department supervisor and shall not be considered formal complaints.

Of note, the personnel complaint policy does not apply to any counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee. Furthermore, this policy does not apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

Personnel Complaints are categorized as being informal, formal or incomplete:

- **Informal** – A matter in which, even if the allegations/concerns were true, the employee would not normally receive formal discipline and the complaining party

is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with department policy.

At times, members of our community want to speak with a supervisor and discuss deputies' actions during a contact or call for service which, for some reason, concerned the community member. Oftentimes, the supervisor is able to share information about the incident and/or proper law enforcement procedures and this information satisfies the community member's concern. Absent an apparent significant violation of policy, the supervisor could handle this concern via this informal process.

- **Formal** - A matter in which the complaining party requests further investigation, or which a department supervisor determines that further action is warranted. Under most circumstances, every effort should be made to have the complaining party in an external complaint complete and submit a citizen complaint form. Internal complaints should be documented in a memorandum and forwarded up the applicable chain of command. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Professional Standards Unit, depending on the seriousness and complexity of the investigation. The complaining party shall be provided with a copy of his/her own original complaint (Penal Code §832.7).
- **Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Professional Standards Unit, such matters need not be documented as personnel complaints. However, the matter may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

Regardless of the seriousness of the complaint or concern expressed, if an official citizen complaint form (commonly referred to as a green sheet) is submitted by a member of the public, IT MUST BE FORWARDED to the Professional Standards Unit. By law, we are required to maintain all submitted citizen complaints for a period of five years, and we are accountable for our ability to provide this information during Pitchess motions. If the matter was handled at the duty supervisor level, a memorandum should be prepared documenting the handling and disposition of the complaint and it should be attached to the complaint form that is sent to the Professional Standards Unit.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. In general, the primary responsibility for the handling of a personnel complaint shall rest with the employee's immediate supervisor. However, the Sheriff or his/her designee may direct that another supervisor investigates the complaint.

The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer and Sheriff are notified as soon as practicable.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Citizen Complaint form is completed as fully as possible. The original complaint form will then be directed to the Professional Standards Unit via the Chain of Command of the accused employee. A copy of the Personnel Complaint form shall be provided to the complainant at the time it is received.
 - 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
 - 2. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.
 - 3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing, or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Division Commander or the Sheriff, who will initiate appropriate action.
- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code §3303, et seq.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Human Resources Bureau and the Sheriff to obtain direction regarding their role in investigating and/or in addressing the complaint.

Process in which Complaints are Assigned for Investigation and Disposition

1. The Professional Standards Unit receives and reviews the citizen complaint. For internal matters, the applicable chain-of-command requests an administrative investigation.
2. In the case of submitted citizen complaints, the Professional Standards Unit notifies the complainant that our agency received their complaint and provides the complainant with the required copy of their submitted complaint (PC832.7).
 - As part of this notification, the Professional Standards Unit advises the complainant something to the effect that, “Your complaint is being reviewed and it will be assigned for further investigation. The assigned investigator will be contacting you in the near future to discuss the content of your complaint.”
3. Immediately available information is obtained and reviewed to assist in evaluating the level of concern relating to the allegations within the complaint.
 - Reports, CAD data, dispatch recordings
 - COBAN, body-worn camera, or the lack thereof
4. The Professional Standards Unit supervisor meets with the Undersheriff and discusses the complaint, its general nature and level of concern to the agency, as well as current Professional Standards Unit availability and case load considerations.
 - The Undersheriff decides whether the complaint will be investigated by the Professional Standards Unit or assigned to the applicable division for investigation and disposition.
5. The complaint is given a Professional Standards Unit tracking number and is entered into the Professional Standards Unit case management system (IAPro). This software tracks a number of important pieces of information, including the assigned investigator, complaint information and investigation status.
6. If the Undersheriff directs that a complaint be assigned to the applicable division for investigation and disposition, the Professional Standards Unit provides the complaint and other available information to the applicable division commander.
 - The division commander reviews the available information and assigns the complaint investigation to a lieutenant or sergeant within his/her division.
 - The Professional Standards Unit should be notified which lieutenant or sergeant is responsible for completing the investigation.
 - The Professional Standards Unit case management system (IAPro) is then updated to indicate the investigative responsibility for the complaint.

Confidentiality of Investigations

Penal Code §832.7 provides that the investigation of complaints against peace officers are confidential and cannot be released unless one of a few specific exceptions is present. The most notable and common method used to seek information from within a confidential peace officer personnel file is through the filing of a motion pursuant to Evidence Code §1043 (Pitchess Motion) within the Superior Court. Persons/entities seeking the release of information via this process must meet certain legal standards prior to any release of information. The court must determine if these legal standards are met and if any records are responsive and relevant to the matter in front of the court. If the court orders the release of confidential peace officer personnel file information, the protective order provided for in Evidence Code §1045(e) should always be obtained.

Pursuant to Penal Code §832.7(a), the peace officer personnel file confidentiality requirements do not apply to the District Attorney, Attorney General, or Grand Jury when inquiring into the conduct of the officer or the agency. Furthermore, legal proceedings in federal court differ in that there is no specific privilege protecting these documents.

Consistent with department policy and California law, all citizen complaints and administrative investigation files are maintained within the Professional Standards Unit for a period of five years. After the passing of the five year time frame, these files are destroyed via the County Board of Supervisors resolution process. However, formal discipline letters stemming from administrative investigations are placed in the employee's Human Resources Bureau personnel file for the duration of his/her employment with the department, and as long as the file is maintained by the Human Resource Bureau after the employee's separation. For additional information, refer to Penal Code §832.5, §832.7 and Sheriff's Policy Manual (Lexipol) §1020.8.1.

Responsibility for Investigation

The authority for the investigation of complaints and alleged misconduct is held by the Office of the Sheriff. The Sheriff is ultimately responsible for the operation of our agency, maintaining discipline within our organization and for insuring our organization provides effective law enforcement services to our community. To accomplish this, the Sheriff or his designee must be aware of allegations of misconduct, allowing him/her to make appropriate decisions as to the manner in which the organization should proceed with investigating and/or addressing the allegations and what, if any, administrative actions are necessary to ensure the good order, efficiency, morale and discipline of our agency is maintained.

However, when possible, the investigation should be carried out by a department supervisor or a specifically assigned investigator, who is not responsible for imposing any potential discipline. Although department employees assigned to the Sheriff's Professional Standards Unit are routinely tasked with these investigative duties, other supervisory employees may be temporarily assigned to complete an administrative investigation on behalf of the Sheriff. In such instances, the administrative investigation will be coordinated through the Professional Standards Unit and the applicable chain of command. The supervisor temporarily assigned to complete an administrative investigation will normally remain responsible for their primary assignment and duties and answer to their existing chain of command.

Investigative Bifurcation **(Allegations Involving Potential Criminal Violations)**

On occasion, our agency must investigate circumstances where it is alleged that an employee not only failed to adhere to department policy, but also violated criminal statutes. In such circumstances the investigation may need to be bifurcated, with separate administrative and criminal investigations. The Sheriff, or his designee, will evaluate the situation and make the decision as to whether or not it is necessary to bifurcate the investigation, and who will be responsible for the administrative and criminal investigations. Under most circumstances, the criminal investigation will not be conducted through or within the Professional Standards Unit.

In a criminal investigation, the subject employee has a right not to answer incriminating questions. The employee may exercise his/her constitutional rights in the same manner as any other person who is being investigated for a crime. The employee's exercise of their constitutional rights during a criminal investigation cannot be used as the basis for discipline. The criminal investigation should be conducted by designated criminal investigators, who are acting separate from administrative investigators. When completed, the criminal investigation should be processed as any other criminal investigation (albeit with appropriate levels of confidentiality). The District Attorney should review the completed criminal investigation to determine if criminal charges will be filed. If the prosecutor declines to prosecute, it is recommended that the decision be obtained in writing and be included in both the criminal and administrative investigation files.

The administrative investigator has full access to the criminal investigation, but the criminal investigators have no access to proprietary administrative investigation information (one-way valve). Under most circumstances, the criminal investigation should precede the administrative investigation, which can then be based upon the information gathered during the criminal investigation. Once the administrative investigator is notified that the criminal investigation is complete and the District Attorney has made a decision, the administrative investigator should proceed with their investigation, collecting additional information and statements necessary for the administrative investigation. At times, it may be appropriate or necessary for the administrative and criminal investigations to run concurrently. This is a decision that will be made by the Sheriff or his/her designee.

During the administrative investigation, department employees do not have a right to refuse to cooperate during an administrative interview. Department employees can be administratively compelled to truthfully and completely answer all questions asked by the assigned administrative investigator, insofar as the questions relate to operations, good order, efficiency and discipline of the agency. The information the employee provides during such compelled statements cannot be used against the officer in a criminal and/or state civil court proceeding (*subject to certain exceptions*).

For additional information, refer to Sheriff's Policy Manual (Lexipol) §1020.5 and Government Code §3303(f) & §3303(h). Further information can be found in the case law documented under *Lybarger v. City of Los Angeles* (1985), 40 Cal.3d 822, which held that an employee may be questioned by his or her employer about suspected misconduct even if that misconduct might amount to a crime, but that the employee may not be disciplined for refusing to answer questions unless he or she has been warned that discipline for insubordination may result if the questions are not answered and that answers given under these circumstances may not be used against the subject employee in a criminal proceeding.

Paid Administrative Leave

When a complaint of misconduct is of a serious nature, or when circumstances practically dictate that it would impose an unreasonable risk to the Sheriff's Office, the employee, other employees, or the public, a supervisor may place the accused employee on paid administrative leave pending completion of the investigation, or the filing of administrative charges. When an employee is placed on paid administrative leave, the supervisor must notify the Office of the Sheriff, via the chain of command prior to the end of the supervisor's shift.

Consideration may be given to the authority granted by the 1997 U.S. Supreme Court decision, Gilbert v. Homar. This decision states an employee who is accused of committing a serious felony may immediately be placed on *unpaid* administrative leave, without first being provided with a pre-suspension hearing. As with paid administrative leave, the supervisor must notify the Office of the Sheriff, via the chain of command prior to the end of the supervisor's shift.

An employee being placed on administrative leave may be subject to the following guidelines:

- (a) An employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- (b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s), keys and/or other departmental equipment, and when so assigned, is precluded from carrying a concealed weapon.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation, and the employee may be required to remain available for contact at all times during such shift and report as ordered.

Completion and Submission of Administrative Investigations

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation in a timely manner. These investigations shall be completed as quickly as practical to protect the rights of complainants and department personnel, and to facilitate the collection of evidence.

The investigator should keep their chain of command and the Professional Standards Unit apprised of any anticipated delays in the completion of their assigned administrative investigation. If an investigation will take an extended amount of time, it is a good idea to communicate with the complainant, letting them know the status of their complaint and to provide some basic idea as to when the complainant can expect to be notified of the disposition of the complaint. It is a good idea to add at least three weeks to your anticipated completion date to account for the executive review process.

Under most circumstances, administrative investigations must be completed and the employee must be served with any intended discipline within one year from the date of discovery by any supervisor within our organization.

Any unreported department policy violations discovered during the investigation should be addressed within the existing administrative investigation if possible and reported through the chain of command if it is not possible or appropriate to address the issue within the existing investigation.

The administrative investigator should objectively gather all facts that are present and relevant to the investigation, but will not provide conclusions concerning the actions of the employee. The administrative investigator should also not express opinions as to what, if any discipline should result from the investigation, as this determination is made by the applicable chain of command and the Office of the Sheriff.

The applicable chain of command of the involved employee is responsible for drawing conclusions and determining dispositions for the allegations made in an administrative investigation. Each allegation within the complaint shall be classified with one of the following conclusion dispositions:

- **Unfounded** – The investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).
- **Exonerated** - The investigation discloses that the alleged act(s) did in fact occur, but that the act(s) was justified, lawful and/or proper.
- **Not Sustained** – The investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.
- **Sustained** – The investigation discloses a preponderance of evidence to establish that the act occurred and that it constituted misconduct.

Upon completion of the investigation, the resulting investigative file shall be forwarded through the chain of command to the commanding officer of the involved employee. The file will be reviewed by the applicable chain of command, who will draw investigative

conclusions, determine a disposition for each of the allegations and make recommendations for disciplinary action if warranted. At any point during the review process, Sheriff's executive staff may direct that the investigation be sent back to the assigned investigator for further investigation or documentation.

Within 30 days of the final review by the Sheriff, written notice of the findings shall be sent to the complaining party. The notice shall indicate the disposition findings but will not disclose the nature of the discipline, if any, imposed (Penal Code §832.7). Any complaining party who is not satisfied with the findings of the department concerning his/her complaint may contact the Sheriff to discuss the matter further.

Documentation Format for Administrative Investigations

Completed and reviewed investigations of personnel complaints shall be documented in a manner that is sufficiently detailed to allow a reasonable person to understand all of the following:

- The nature of the complaint.
- How the complaint was investigated.
- The disposition of the complaint allegations.
- The basis upon which this disposition was based.

In some instances, a detailed memorandum may be sufficient in meeting this requirement, particularly when involving relatively minor citizen complaints that are assigned to divisional supervisors. In other instances, the below listed full administrative investigation file format will be necessary. In still other instances, some combination of the two, or other modified format may be appropriate. The ultimate decision as to what level of investigation and documentation required for a particular case is at the discretion of the Sheriff or his designee. The assigned investigator should confer with their immediate chain of command and the Professional Standards Unit to obtain guidance with regard to this subject matter.

If the administrative investigation requires extensive investigation, will likely result in discipline to an employee, or for some other reason constitutes a significant concern to our organization, the investigator will need to submit a full administrative investigation documentation file through the chain of command. If this is the case, the investigator should obtain a case file/packet from the Professional Standards Unit as soon as practical. The assigned investigator should also confer with the Professional Standards Unit to ensure the Professional Standards Unit knows to whom the investigation is assigned and that the investigator has all information and documentation possessed by the Professional Standards Unit relating to the complaint. What follows is the standard Professional Standards Unit administrative investigation file format.

CONFIDENTIAL CASE WARNING – This document shall be displayed immediately upon opening any Administrative Investigation case file.

TITLE PAGE – This page lists the name(s) of the employee(s), the alleged violations, the date(s) of occurrence, and the name of the submitting investigator.

TABLE OF CONTENTS – This is a brief description of the contents of the case file. In more complex investigations, the case file should also contain dividing tabs to aid the reader in locating pertinent documentation.

CONCLUSION SECTION

Investigative conclusion face sheet – This is a fill-in-the box form, listing basic information about the complaint, its allegations and their final dispositions. The assigned investigator records the specific policy violations alleged but *does not* make determinations on the disposition of these allegations. The applicable chain of command shall be responsible for determining dispositions for each allegation.

Conclusion narrative – This is a detailed narrative listing the individual alleged violations of department policy and Santa Barbara County Civil Service Rules, the disposition for each violation allegation and the evidence upon which we are substantiating the disposition of the allegation. *The completion of this narrative is the responsibility of the named employee's commanding officer or his/her designee.*

INVESTIGATIVE REPORT – The Investigative Report shall contain brief documentation of interviews, evidence review, investigative actions or other steps taken to complete the administrative investigation. Points to address in the Investigative Report include, but are not limited to:

- Events that led up to the administrative investigation.
- Receipt and investigative assignment of the complaint or other allegations of impropriety.
- Your initial investigative steps and preliminary research, including reviewing the complaint and any available reports.
- Interviews of complainants, witnesses and subject employees.
- Investigative analysis of evidence .
- Investigative analysis of applicable laws/policies.

INTERVIEWS & REPORTS – Detailed report narratives documenting any interviews and other significant investigative processes completed during the administrative investigation should be included in the Investigative Report.

- Under most circumstances, separate reports should be written to document individual interviews. However, under certain circumstances it may be appropriate to combine certain witness interviews.
- These reports should comprehensively and objectively document the information provided during the interview, or learned during investigative analysis.
- The general report format is available via Microsoft Word document templates.
- Narratives should be written in a manner consistent with how you would write a normal Sheriff's report narrative.
- To the extent possible, events in an individual report should be organized chronologically.
- Avoid misuse and overuse of quotations – do not allow the true meaning of what was expressed during the interview to be changed or confused by the misuse or overuse of quotations.
- Do not attempt to incorporate your subjective analysis of the statement into the report.

- If the statement is inconsistent with other objective evidence, it would be appropriate to document this discrepancy within the report, but not to add your subjective thoughts based upon your view of the discrepancy. This evaluation of veracity would best be addressed and documented within conclusions drawn by Executive staff.
- Attach any written statements or other documentation submitted by the person interviewed within the individual report pertaining to that interview.
- As much as possible, avoid making the reviewer flip between sections of the administrative investigation file while reading about the statements of a particular person. For example, under most circumstances:
 - The submitted citizen complaint form should be attached to the report documenting the interview with the complainant.
 - Reports authored by deputies should be attached to the report documenting the interview with the deputy who wrote the report.
 - If an investigative analysis report is based upon evidence, or other documentation that can be attached to a report, attach it to the individual analysis report.
 - Again, as much as possible avoid making the reviewer flip between sections of the file while reading about a particular topic.
- When arranging reports within this section, avoid hiding the most important information at the bottom of the pile. A sample report arrangement might entail:
 - Complainant.
 - Direct witnesses with pertinent observations.
 - Review/Analysis of evidence that resulted in the discovery of significant information upon which the disposition of the investigation can be based (COBAN, BWC, or other recordings).
 - Subject employee.
 - Review/analysis of applicable laws and department policies.
 - Indirect witnesses or direct witnesses without pertinent observations.
 - Review/analysis of evidence, or other investigative steps that did not result in significant information upon which the disposition of the investigation can be based.

DOCUMENTS SECTION – This section should contain pertinent documentation that is not specifically addressed within the reports section of the file. Examples of such documentation may include:

- Summary of employee history. The completion of this form is generally required any time there appears to be sustained allegations of misconduct by an employee.
 - Attach any *relevant* EPR's, WEAR file entries, disciplinary letters, letters of commendation, records of training, etc...
 - These documents may be utilized to determine if progressive discipline is required.
- Reports generated by other entities and which were not written by persons interviewed during the investigation and do not relate to any investigative analysis reports.
- RMS, CAD and JMS data/reports

- However, if information within these documents is potentially relevant to an interview documented within the reports section, it may be appropriate to attach the record to the applicable report.
- Photographs that are not addressed in a separate evidence analysis report.
- Administrative documents including confidentiality orders, administrative admonishments, notifications, etc.

MISCELLANEOUS

CD or DVD media disk containing:

- All digital recordings (interview audio recordings, COBAN, BWC, etc.)
- Electronic copies of any and all documentation and evidence related to the investigation.
 - Reports
 - File documents
 - Emails
- Any and all other digital information related to the investigation

Storage of complaints and administrative investigation documentation

Professional Standards Unit investigations, with the exception of formal letters documenting specific disciplinary action taken against the employee, shall be kept separate from personnel records maintained by the Sheriff's Human Resources Bureau. The Professional Standards Unit is the custodian of all completed administrative investigations, regardless of the final disposition.

Pursuant to Penal Code §832.5 and Sheriff's Office policy, the Professional Standards Unit retains and stores all citizen complaint documentation for a period of five years. All other administrative investigation documentation maintained by the Professional Standards Unit is also retained for this five year period. The Professional Standards Unit destroys all documentation that is more than five years old, utilizing and following the County Board of Supervisors resolution process.

It is important to recognize that by statute, these records are part of a deputy's personnel records, and must, therefore, be available to the court for Evidence Code §1043 purposes, frequently referred to as a Pitchess motion, and are discoverable in court proceedings under specified circumstances.

It is IMPERATIVE that anyone assigned to complete an administrative investigation NOT RETAIN any documentation related to that investigation. All documentation should be turned in with the administrative investigation file (put it on the CD/DVD media disk) and/or handed over to the Professional Standards Unit. If required, the Professional Standards Unit can make the documents/data available to the investigator should it be necessary to conduct further investigation or to make corrections to reports/documents within the submitted file. If the investigator would like to retain documentation for exemplar purposes, he/she should ensure that they change all names, dates, locations and any other information that would allow the document to be associated with a particular employee or event. Of note, we specifically inform the employee (and swear under oath during Pitchess motions) that after the passage of the five-year term, the Sheriff's Office does not retain any complaint/administrative investigation documentation).

DO NOT RETAIN ADMINISTRATIVE INVESTIGATION DOCUMENTATION!



Investigation and Documentation of Administrative Investigations

How to Conduct an Administrative Investigation

What follows is a generalized outline that may assist the assigned administrative investigator while preparing for and conducting an investigation. This outline is *not* meant to be a comprehensive, or step-by step instruction to be followed in all circumstances. Although some investigations may have similarities, each complaint investigation must be evaluated and conducted based upon the individual circumstances present in the case. If the investigator has any questions as to how they should proceed, they should discuss this with their chain of command and/or the Professional Standards Unit.

The ultimate responsibility of the assigned investigator is to be an objective fact-finder and to gather sufficient information to establish whether or not the affected members of our agency acted appropriately, lawfully and within department policy and to identify how and why any shortcomings or failures occurred.

- Review the complaint documentation provided to you at the time of assignment.
- As soon as is practical, contact the complainant and let them know that you were assigned to investigate their complaint.
 - If possible do this in conjunction with, or in the form of an email, as it creates a record of this being done, when it was done and what was communicated.
 - You may or may not be ready to interview the complainant at this point. At a minimum you should:
 - Give the complainant your contact information.
 - If you are not ready to interview the complainant at this point, give the complainant an idea as to when they can expect that you will be ready to interview them and discuss the complaint in detail.
 - Not only is this professional, it may allay many of the fears or misguided beliefs held by the complainant about our agency and the manner in which we are going to handle their complaint.
- If the investigation is assigned to you as a divisional supervisor, notify the Professional Standards Unit that the case was assigned to you.
 - The Professional Standards Unit case management software will be updated to reflect this assignment.
 - The Professional Standards Unit may have items you will be looking for.
 - Evidence, forms, exemplars or advice. If available, it will be shared with the assigned investigator.
- Gather and evaluate all available documentation.
 - In a timely manner, contact your chain of command and discuss any concerns you have with the assignment of the case.
 - Do you feel uncomfortable with the assignment? You may know something your chain of command does not!
 - It may be appropriate for the investigation to be reassigned to another supervisor, a person of higher rank, or the Professional Standards Unit.
 - For example, if the supervisor who is assigned the investigation realizes a person of equal or greater rank is a

subject employee within the investigation, it will likely need to be reassigned.

- Create and maintain objective records while conducting the investigation.
 - Record all of your interviews with a digital audio recorder.
 - Because you are not conducting a criminal investigation, recordings should not be created surreptitiously. The best practice is to verbally notify the involved parties that you are recording the interview, preferably at the beginning of the recording (documenting the notification).
 - The Professional Standards Unit can loan you a digital recorder if you do not have one at your disposal.
 - Save all communications and documentation related to the investigation,
 - Emails are a wonderful means of sending and receiving information, and carry the added benefit of creating a record of what was communicated and when it was done.
 - The emails can be saved on the CD/DVD media disk that should be contained in the Miscellaneous section of the administrative investigation file.
 - If you have any question as to how to accomplish this, contact the Professional Standards Unit.
- Contact the complainant and conduct a detailed interview.
 - Do not attempt to arrest the complainant for violating Penal Code section 148.6 (false complaint). Although this law was found to be constitutional by the California Supreme Court, the Federal 9th Circuit Court of Appeals declared it unconstitutional. Furthermore, do not attempt to seek prosecution for this law without first consulting with the District Attorney's Office and County Counsel, as it may expose our agency to Federal civil liability.
 - Remember your role as the administrative investigator is to be an objective finder of fact. Although it may be appropriate to share information with the complainant relating to proper law enforcement procedures and the application of laws and department policies, attempting to convince or change the mind of the complainant is usually counterproductive and may cause the complainant to believe the investigator has already made up his/her mind, without completing the investigation.
 - If the complainant attempts to turn the interview into an inquisition (wanting to know what our policies and procedures are and what your opinion of the deputy's actions are), it is usually a viable tactic (and the truth) to remind them of the importance that you remain completely objective while conducting the complaint investigation and that interjecting your personal opinion, or attempting to apply policies to the situation without first obtaining all available information, would hinder that objectivity.
 - Be aware that we are required to notify the complainant of the outcome once an investigation is concluded. It would be embarrassing if this notification was not consistent with any opinions you shared during your conversations with the complainant.
 - At this point in the investigation, you want to allow the complainant to provide us with their account and their view of the situation.

- Let them ramble... at minimum, it is cathartic for them, but they may share information (oftentimes accidentally) that you can use during the interview, or within the investigative conclusion or closure memorandum.
- Administrative complaint investigations are part of the deputy's confidential peace officer personnel file pursuant to §832.7 PC. Unless necessary to do so for investigative purposes, it is generally advisable that you limit the amount of specific information you share with the complainant, or any other persons you interview as part of the administrative investigation.
 - Examples of information that should not be shared:
 - Your opinions
 - The statements of other witnesses
 - Any past history involving the involved employee's:
 - Prior similar incidents
 - Competency
 - If it is not necessary to a particular piece of information in order to obtain and discuss the complainant's recollection, the best practice is to not share it.
 - We are only able to legally release two pieces of information to the complainant.
 - A copy of their original complaint
 - A notification that the investigation is complete and its general disposition.
 - If the complainant does not like that you are not sharing information about the administrative investigation, provide them with information about section §832.7 PC.
 - It is our experience that the complainant might not be happy that they are not being told everything about the investigation, but they are generally accepting once you explain that it is against the law for you to share this type of information.
 - This is another tactic that may be viable if a complainant attempts to turn the interview into an inquisition.
 - It is okay to share basic information about how the investigation will proceed and be processed.
 - How long you believe it will take for you to finish and document your investigation.
 - Of particular note, let them know that once you are finished conducting interviews and writing reports, it will be reviewed through at least three levels of executive staff before the investigation is approved and considered complete. *This usually takes between two and three weeks.*
 - The complainant will be notified by the Professional Standards Unit once the investigation is approved and closed.

- Somewhere about this time frame (*before, during or after the next two steps*), Stop and evaluate the overall nature and circumstances of the administrative investigation.
 - If you are concerned that the circumstances appear to involve significant wrong doing by department personnel, significant civil or political liability, the potential for significant discipline to an employee (more than just a WEAR entry or letter of reprimand) or that a person of higher rank than you is going to be a subject employee:
 - Discuss these concerns with your chain of command and the Professional Standards Unit. It may be appropriate for the case to be reassigned to a person of higher rank, or to the Professional Standards Unit.
 - In all cases, contact your chain of command and discuss what you have learned thus far within the investigation. It is *always* advisable to keep your chain of command informed of the progress of your investigation, and any significant developments or changes that may occur.

It is important to note that your investigation may or may not require a full administrative investigation package:

Abbreviated investigation package: Sometimes, complaint investigations that are not going to result in formal discipline (*of note, the POBR threshold for “formal discipline” is a letter of reprimand*) can be completed and documented in an abbreviated manner from this point forward (**as long as it provides for a sufficient investigation and documentation of the overall circumstances present**). Ultimately, it is the Sheriff’s or his/her designee’s decision as to whether or not this is appropriate. If the investigation was assigned to a divisional investigator, the applicable division commander can usually decide whether or not a particular administrative investigation can be investigated and documented in an abbreviated manner.

At times, a submitted citizen complaint is determined to actually be a citizen’s inquiry regarding the actions of an employee, and may only require clarification about what took place and the reasons behind the action taken. In speaking with the applicable department employee(s), though, you must make sure they understand you are investigating a citizen complaint, and consider the following precautions:

- Even though the investigation will not result in discipline, if the employee named within the complaint requests full representation/protection of POBR, it should be afforded to them.
- The investigator usually authors a single comprehensive memorandum documenting the investigation, findings, disposition and closure of the investigation.

Full administrative investigation and documentation package: If, in evaluating the subject matter of the investigation and discussing it with your chain of command, the level of potential liability, likelihood of discipline, or any other reason, determines that you will need to complete the full administrative investigation and documentation package, you will also need to ensure you do the following.

- Interview any relevant witnesses identified by the complainant or through other means (RP's in CAD, witnesses listed in reports, etc.)
- Interview department personnel who do not appear to be subjects or potential subjects of the investigation.
 - All department personnel who are interviewed during an administrative investigation should be required to review and sign an Administrative Investigation Admonishment and an Order of Confidentiality prior to being interviewed.
- Ensure that you have pursued all available avenues of obtaining objective evidence.
 - If you intend to search an employee's personal locker, desk or storage area, you must comply with POBR.
 - Accessing departmentally maintained emails and other computer files requires the approval of the Undersheriff. If this is necessary, you should contact the Professional Standards Unit to coordinate this.
 - Consult with County Counsel prior to requiring an employee to give you access to their personally owned property.
 - Generally, you do not have the right to administratively search the employee's private property/belongings, without consent.
 - However, we enter a gray area when employees use personally owned devices while on-duty and in the performance of their duties (examples might include recorders, cell phones and cameras). Again, consult with County Counsel and your chain of command.
- Interview all subject and potential subject employees, making sure to comply with POBR
 - Provide notices to subject, or potential subject, employees (err on the side of caution).
 - Best practice is to put it in writing (but not absolutely required).
 - Describe the allegations and incident you intend to interview the employee about.
 - List any relevant potential department policy and Civil Service Rule (CSR) violations
 - Lexipol Section 340 contains the vast majority of policies that are violated.
 - List any other relevant department policies or written directives.
 - Relevant Civil Service Rules are included in this manual (CSR §1203 et al).
 - Right to representative of choice (can be *anyone* that is not a potential subject or witness in the investigation).
- Subject employee(s) interview
 - Unless the subject matter is uncomplicated and the interview will be brief, it is highly recommended that the investigator prepare interview questions, notes or an outline to use during the interview.
 - In most circumstances, the investigator will have plenty of time to prepare for the interview.
 - If possible, complete the interview during the subject employee's regular duty hours/days.
 - All department personnel interviewed during an administrative investigation should be required to review and sign an Administrative Investigation Admonishment and an Order of Confidentiality prior to being interviewed.

- As with all other interviews, record the interviews with the subject employee(s).
 - If the subject employee desires to do so, they are allowed to make their own recording of the interview.
- If the allegations to be discussed contain potential criminal violations on the part of the employee, ensure the employee reviews and signs the Lybarger Admonishment form, which includes the Miranda Admonishment.
- The employee is required to be permitted reasonable access to breaks.
- Be respectful in your line of questioning, but do not avoid the hard questions or sensitive subject matter! Your job is to ask the questions that the reviewers of the case would want asked.
 - If you miss relevant subject matters, or do not ask necessary questions, it is likely the investigation will be returned to you for further investigation and you will need to re-interview the subject employee.
- Research and evaluate information and evidence that assists in explaining why things were done in the manner they were.
 - Were actions consistent or inconsistent with applicable law, department policies and procedures?
 - Were actions consistent or inconsistent with the manner in which employees were trained to perform their duties?
 - What information was and was not available to the employee at the time?
- If there appears to be failures or shortcomings in the performance and conduct of our employee, attempt to identify and recognize any mitigating factors. Executive staff should be aware of any mitigating factors during their decision making process regarding the imposition of formal discipline. Mitigating factors may include:
 - Insufficient training.
 - Employee given advice or direction that was inconsistent with law or department policy.
- If there appears to be failures or shortcomings within our department policy, procedures, practices, or training the assigned investigator should ensure this is brought to the attention of the applicable chain of command, so that it can be addressed and remedied. It should also be documented within the administrative investigation package.

Compliance with POBR

California Government Code §3300 through §3312 are cumulatively referred to as the California Public Safety Officers Procedural Bill of Rights Act (POBR). POBR contains a number of parameters and restrictions relating to the manner in which we conduct administrative investigations that will be used as the basis of any formal discipline imposed upon a peace officer. *As a side note, it is our agency's practice to extend the usage of POBR protocols and protections to investigations involving our non-sworn personnel.*

When teaching new Professional Standards investigators, Gary Gregson (*DPREP LLC and retired Sacramento PD*), an experienced Internal Affairs investigator/manager/instructor makes it a point to refer to POBR as the, "Peace Officers Bill of the Right thing to do." This is a great mindset to keep and reflect upon while conducting administrative investigations.

There are four major areas of POBR concern that typically come into play when conducting and adjudicating administrative complaint investigations, and which the investigator should be aware of as they proceed forward with their investigation.

1. Administrative searches.
2. Appropriately notifying subject employees when you intend to interview them as part of an administrative complaint investigation.
3. The manner in which the interview is conducted with subject employees.
4. The imposition of discipline upon the employee.

Does POBR apply?

Some aspects of POBR are applicable to all investigative efforts. For instance, an employee has the right to inspect their personnel file and must be made aware of any adverse comments entered into any personnel files maintained by our agency. Additionally, under most circumstances, if you want to administratively search an employee's locker, you must comply with POBR. Another example would be that, regardless of your intentions to discipline an employee, you must not attempt to force an employee to engage in political activities. These and a few other points within POBR are not relegated to administrative investigations and/or disciplinary matters. The complete contents of POBR are included within this manual.

With regard to the portions of POBR that apply to administrative investigations, the first consideration that should be addressed is whether or not the protections of POBR apply in the specific instance you are investigating.

- Insofar as interviewing employees during administrative investigations, POBR generally only applies when the supervisor/investigator knows, or reasonably should know, the particular employee will be subject to formal discipline as a result of information to be discussed during the interview.
 - For the purposes of POBR, formal discipline starts with written reprimands that are placed in the employee's permanent personnel file and proceeds up through suspensions, disciplinary reassignment, demotions, and termination.
- Verbal counseling, WEAR file entries, training and other such supervisory means

of addressing employee performance and conduct that are not placed in their permanent personnel file and do not impact the employee's assignment status or financial well-being are generally not subject to POBR.

- The most notable instance in which POBR does not apply are situations wherein the employee is a witness to the matter being investigated and our agency has no intention to, or reasonable belief that we may, discipline the employee as result of information that will be discussed during the interview.

If on the other hand, in reviewing the allegations and/or circumstances present, the supervisor/investigator reasonably believes the employee could potentially be formally disciplined as a result of the information to be discussed during the interview, the protections of POBR apply and the investigator should ensure compliance with POBR as the investigation progresses. In such cases, the employee is considered a "subject" of the administrative investigation and the following provisions of POBR need to be adhered to:

- It can be challenging to ensure proper notification in some "administrative" situations faced by supervisors. For example, when an employee is involved in an on-duty "at fault" vehicle accident, the supervisor is responsible for conducting an administrative accident investigation.
 - If the supervisor reasonably believes the employee will be disciplined for the accident, the supervisor should avoid interviewing the employee without providing for POBR (including making the employee write a memorandum).
 - We can obtain the employee's statement via the traffic collision investigator interview (usually CHP) or by interviewing the employee after providing proper POBR compliance.
- Prior to being interviewed, subject employees must be advised of the nature of the investigation, whom will be conducting the interview, and the subject matter to be discussed during the interview. The interview must also be conducted in a reasonable manner. CA Government Code §3303.
 - Directing the employee to author a memorandum or other documentation addressing the circumstances DOES NOT circumvent the requirements of POBR.
 - Unless department policy specifically mandates it (example: use of force documentation), If a supervisor reasonably knows the circumstances may result in formal discipline, any such requirement to author a memorandum would be viewed as a form of administrative interview and may violate POBR.
- The employee cannot be required to submit to a polygraph test or to turn over personal financial information. CA Government Code §3307, §3308.
- The employee must be notified of any intended discipline within one year of the agency discovering the inappropriate conduct/performance. CA Government Code §3304.

In most circumstances, CA Government Code §3303 is going to be the assigned investigator's primary concern. CA Government Code §3303 has two facets:

- What information must be shared with the subject employee prior to beginning the interview.
- The manner in which the interview must be conducted.

Notification:

Information that ***must*** be provided to the subject employee prior to the interview:

- Name, rank and authority of the supervisor/investigator responsible for conducting the investigation.
- The nature of the administrative investigation.
- Right to bring a representative of their choice to be present during the interview.

Generally, this required notification is provided to the subject employee(s) in the form of a written letter, advising the employee of the investigation, its nature and directing the employee to participate in an interview. Although POBR does not require the use of a written notice, and in some circumstances it may not be possible or practical, it is generally accepted as being the best practice when conducting administrative complaint investigations.

- A copy of an exemplar written notice is included within this manual, and a Microsoft Word template document is available on department computers.
- The investigator should consider emailing the notice, even if the notice was first given in person.
 - Email provides a date/time stamped record that assists in proving POBR was complied with.
 - Employee responses to the notification email should also be retained.

Information that ***should*** be included within the written notice:

- Name of the assigned primary investigator.
- Nature of the administrative investigation and the subject matter that will need to be discussed during the interview.
 - Description of events and circumstances that gave rise to the investigation.
 - At a minimum, this should provide sufficient information to allow the employee to understand what events/circumstances will be discussed during the interview.
 - Providing additional information may be appropriate and can be done at the investigator's discretion. Considerations may include:
 - Will this additional information assist the employee in recalling necessary details?
 - This is oftentimes the case when there is an extended delay between the event in question and the interview.
 - On the other hand, will the release of this additional information call into question the validity or objectivity of the investigation? This is of particular concern when the employee's truthfulness is being questioned.
 - Giving the employee so much information that they may be able to fabricate their account around the available evidence and/or the statements of witnesses.
- List all potentially applicable department policies and SBC Civil Service Rules.
 - The investigator should review the Lexipol department policy manual, any other applicable department manuals or published operating procedures/directives and SBC Civil Service Rule 12, et al. The investigator should inform the employee of any policies or rules that may be discussed during the interview, or which may be used as the basis for any discipline.

- The more frequently involved policy sections are found within Lexipol §340.
- Advisement of right to bring representative of choice to the interview.
- Time frame in which the interview is to be scheduled.
- Order of confidentiality.

Refer to the exemplar subject letter in the Sample Forms chapter of this manual.

Subject employees must be given reasonable time to obtain and coordinate with their chosen representative/counsel for their interview. The nature of the allegations and the overall circumstances should be considered when determining what constitutes a reasonable amount of time.

- Because Legal Defense Fund (LDF) attorneys utilized by our employee groups are not based in the local area, and represent many other employee groups throughout Southern California, it is not uncommon for the interview appointment to be delayed for several weeks. The investigator should keep this in mind when planning their investigative timeline.

The Interview:

With regard to the interview itself, POBR provides the following:

- The subject employee has the right to bring a representative of his choice and have them present during the interview.
 - This representative can be anyone who is not a witness, or additional subject employee in the administrative investigation.
- The interview shall be conducted at a reasonable hour.
 - Preferably during the subject employee's regular duty hours/days, unless the seriousness of the investigation requires otherwise.
- The subject employee shall be informed prior to the interview of the name, rank and command of the person in charge of the interview, the interviewing officer(s) and any other person who will be present during the interview.
- Written notification (addressed above).
- Introductions at the onset of the recorded interview.
- All questions directed to the subject officer/employee under investigation shall be asked by and through no more than two interrogators at one time.
- The employee *shall not* be subjected to:
 - Offensive language.
 - Threats of punishment.
 - With the exception of insubordination for refusing to participate in the interview and/or to answer questions during the interview.
 - Promises of rewards for answering questions (“If you tell me what we want to hear, we’ll go easy on you”).
- The interview shall be reasonable in length, considering the complexity and quantity of information that must be discussed.
- The employee shall be allowed to attend to their personal physical necessities (reasonable breaks).
- If the interview is recorded (our department policy requires this), the subject

employee is entitled to a copy of the recording and any transcriptions of the recording prior to being required to engage in follow-up interviews.

- The subject employee and/or their representative may bring and utilize their own recording device during the interview.

As always, if you have any questions regarding any particular concern, contact the Professional Standards Unit for guidance.

How to Document an Administrative Investigation

What follows is a generalized outline that may assist the assigned administrative investigator with documenting and submitting the administrative investigation. This outline is *not* meant to be a comprehensive or step-by-step instruction to be followed in all circumstances. Although some investigations may have similarities, each complaint investigation must be evaluated, conducted and documented based upon the individual circumstances present in the case. If the investigator has any questions as to how they should proceed they should discuss this with their chain of command and/or the Professional Standards Unit.

With regard to administrative investigation documentation, the ultimate responsibility of the assigned investigator is to create comprehensive, thorough and objective documentation of the information and evidence gathered during the administrative investigation. The documentation should provide sufficient information and evidence to establish whether or not the affected members of our agency acted appropriately, lawfully and within department policy and to identify how and why any shortcomings or failures occurred.

- If the matter does *not* require a full administrative complaint investigation package:
 - Closure memorandum
 - Must be approved by the Sheriff, his/her designee, or the applicable commander if assigned to a sergeant/lieutenant in the affected division.
 - This could be a short, simple memorandum or it may be necessary to write a long, detailed memorandum. It all depends on how much information is necessary in order to sufficiently address and explain the investigation and how we determined the appropriate disposition for the complaint.
 - All related documentation, evidence and recordings should be attached to the memorandum.
 - Retain all recordings on a CD/DVD and submit everything with your memorandum.
 - As a further suggestion, the investigator should also save all emails related to the investigation and retain them on a CD/DVD.
 - Even if the investigation can be documented in a closure memorandum, it is generally suggested that you obtain a red file folder from the Professional Standards Unit. It will assist in ensuring the administrative investigation documentation is reviewed in a timely manner and not misplaced.
- If the matter will require a full administrative complaint investigation package (a few exemplars of this type of file documentation are contained within this manual):
 - Write and assemble the package in a manner that would best allow anyone to understand:
 - The nature of the complaint and your investigation.
 - The investigative steps that were completed.
 - What information and evidence was gathered during the investigation.

- The conclusions that were drawn from the information and evidence gathered during the investigation. How and why we came to the conclusion/disposition we did.
 - *Apart from the Conclusion face sheet, this information will be completed by the applicable chain of command.*
 - Avoid *excessive* redundancy, but not at the expense of clarity.
 - Keep like topics/information together. You should attempt to avoid making reviewers skip back and forth between areas of the file.
 - If a person you interviewed provided documentation to you, attach it to the respective interview report, as opposed to hiding it within the documents section.
 - Assemble interview/reports and other documentation based upon relevance.
 - Do not hide the most important interview or document at the back of the file just because it was the last thing you obtained.
 - For example, if you reviewed COBAN/BWC video that clearly shows the complainant was not truthful, it should be the second report, right after the report documenting your interview with the complainant!
- If you do not already have one, contact the Professional Standards Unit and obtain a red file folder.

Refer to the “Documentation Format for Administrative Investigations” section on Page 17 of this manual for detailed information regarding the documentation of a full administrative complaint investigation package

**DO NOT PERSONALLY RETAIN ANY DOCUMENTATION
RELATED TO THE INVESTIGATION!**

- Turn everything over to the Professional Standards Unit. This unit is responsible for, and will retain and maintain, all documentation for a period of five years. After this five year period, the Professional Standards Unit will ensure the materials are destroyed in compliance with state law and department policy.
- If you would like to maintain exemplars of your work for future reference, you must change the names, dates, case numbers and anything else that could associate it with a particular employee or actual incident.

Submission of the Investigation Package:

- The Professional Standards Unit will make its personnel available to review your investigation package prior to submission if you so desire.
- Submit the investigation package to the applicable division commander, via your chain of command.
- The investigation is not complete until it is approved by the required levels of Executive staff. Until then, it can be returned to the assigned investigator or the Professional Standards Unit for further investigation.
- Once an investigation package is reviewed and approved by Executive staff, it is complete. At this point, the Professional Standards Unit will ensure that required notices are sent to the complainant and the subject employees.

The seal of the Sheriff's Office, Eureka, California, is a five-pointed star. The top point contains the word "SHERIFF" in blue. The bottom point contains the word "BARBARA" in blue. The center of the star features a circular emblem with a landscape scene, including a lighthouse and a ship, with the word "EUREKA" above it. The star is surrounded by a decorative border.

Applicable Laws and Department Policy

Statutory Law

California Penal Code

PC §832.5

(a)(1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public

(2) Each department or agency that employs custodial officers, as defined in Section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided however, that any procedure so established shall comply with the provisions of this section and with the provisions of Section 832.7.

(b) Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years. All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. However, prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in separate file designated by the department or agency, in accordance with all applicable requirements of law.

(c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and Section 1043 of the Evidence Code.

(1) Management of the peace or custodial officer's employing agency shall have access to the files described in this subdivision.

(2) Management of the peace or custodial officer's employing agency shall not use the complaints contained in these separate files for punitive or promotional purposes except as permitted by subdivision (f) of Section 3304 of the Government Code.

(3) Management of the peace or custodial officer's employing agency may identify any officer who is subject to the complaints maintained in these files which require counseling or additional training. However, if a complaint is removed from the officer's personnel file, any reference in the personnel file to the complaint or to a separate file shall be deleted.

- (1) "General personnel file" means the file maintained by the agency containing the primary records specific to each peace or custodial officer's employment, including evaluations, assignments, status changes, and imposed discipline.
- (2) "Unfounded" means that the investigation clearly established that the allegation is not true.
- (3) "Exonerated" means that the investigation clearly established that the actions of the peace or custodial officer that formed the basis for the complaint are not violations of law or department policy.

PC §832.7

(a) Peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) Notwithstanding subdivision (a), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(c) Notwithstanding subdivision (a), a department or agency which employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(d) Notwithstanding subdivision (a), a department or agency which employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative

(e) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition. The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(f) Nothing in this section shall affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

IMPORTANT *Although the following law was deemed constitutional by the California Supreme Court, the Federal 9th Circuit Court of Appeals opined that it is unconstitutional. Although this law is still present in the Penal Code, **DO NOT arrest anyone for this law without first consulting with the District Attorney's Office and County Counsel, as doing so may result in federal criminal and/ or civil liability for violation of constitutional rights.***

PC148.6 (a) (1) Every person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, knowing the allegation to be false, is guilty of a misdemeanor.

(2) Any law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the following advisory, all in boldface type:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

Complainant

(3) The advisory shall be available in multiple languages.

(b) Every person who files a civil claim against a peace officer or a lien against his or her property, knowing the claim or lien to be false and with the intent to harass or dissuade the officer from carrying out his or her official duties, is guilty of a misdemeanor. This section applies only to claims pertaining to actions that arise in the course and scope of the peace officer's duties.

California Civil Code

§47.5

Notwithstanding Section 47, a peace officer may bring an action for defamation against an individual who has filed a complaint with that officer's employing agency alleging misconduct, criminal conduct, or incompetence, if that complaint is false, the complaint was made with knowledge that it was false and that it was made with spite, hatred, or ill will. Knowledge that the complaint was false may be proved by a showing that the complainant had no reasonable grounds to believe the statement was true and that the complainant exhibited a reckless disregard for ascertaining the truth.

California Evidence Code (Pitchess motions)

§1043

(a) In any case in which discovery or disclosure is sought of peace or custodial officer personnel records or records maintained pursuant to Section 832.5 of the Penal Code or information from those records, the party seeking the discovery or disclosure shall file a written motion with the appropriate court or administrative body upon written notice to the governmental agency which has custody and control of the records. The written notice shall be given at the times prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure. Upon receipt of the notice the governmental agency served shall immediately notify the individual whose records are sought.

(b) The motion shall include all of the following:

(1) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the peace or custodial officer whose records are sought, the governmental agency which has custody and control of the records, and the time and place at which the motion for discovery or disclosure shall be heard.

(2) A description of the type of records or information sought.

(3) Affidavits showing good cause for the discovery or disclosure sought, setting forth the materiality thereof to the subject matter involved in the pending litigation and stating upon reasonable belief that the governmental agency identified has the records or information from the records.

(c) No hearing upon a motion for discovery or disclosure shall be held without full compliance with the notice provisions of this section except upon a showing by the moving party of good cause for noncompliance, or upon a waiver of the hearing by the governmental agency identified as having the records.

1044. Nothing in this article shall be construed to affect the right of access to records of medical or psychological history where such access would otherwise be available under Section 996 or 1016.

1045

(a) Nothing in this article shall be construed to affect the right of access to records of complaints, or investigations of complaints, or discipline imposed as a result of those investigations, concerning an event or transaction in which the peace officer or custodial officer, as defined in Section 831.5 of the Penal **Code**, participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties,

provided that information is relevant to the subject matter involved in the pending litigation.

(b) In determining relevance, the court shall examine the information in chambers in conformity with Section 915, and shall exclude from disclosure:

(1) Information consisting of complaints concerning conduct occurring more than five years before the event or transaction that is the subject of the litigation in aid of which discovery or disclosure is sought.

(2) In any criminal proceeding the conclusions of any officer investigating a complaint filed pursuant to Section 832.5 of the Penal **Code**.

(3) Facts sought to be disclosed that are so remote as to make disclosure of little or no practical benefit.

(c) In determining relevance where the issue in litigation concerns the policies or pattern of conduct of the employing agency, the court shall consider whether the information sought may be obtained from other records maintained by the employing agency in the regular course of agency business which would not necessitate the disclosure of individual personnel records.

(d) Upon motion seasonably made by the governmental agency which has custody or control of the records to be examined or by the officer whose records are sought, and upon good cause showing the necessity thereof, the court may make any order which justice requires to protect the officer or agency from unnecessary annoyance, embarrassment or oppression.

(e) The court shall, in any case or proceeding permitting the disclosure or discovery of any peace or custodial officer records requested pursuant to Section **1043**, order that the records disclosed or discovered may not be used for any purpose other than a court proceeding pursuant to applicable law.

1046. In any case, otherwise authorized by law, in which the party seeking disclosure is alleging excessive force by a peace officer or custodial officer, as defined in Section 831.5 of the Penal **Code**, in connection with the arrest of that party, or for conduct alleged to have occurred within a jail facility, the motion shall include a copy of the police report setting forth the circumstances under which the party was stopped and arrested, or a copy of the crime report setting forth the circumstances under which the conduct is alleged to have occurred within a jail facility.

1047. Records of peace officers or custodial officers, as defined in Section 831.5 of the Penal **Code**, including supervisory officers, who either were not present during the arrest or had no contact with the party seeking disclosure from the time of the arrest until the time of booking, or who were not present at the time the conduct is alleged to have occurred within a jail facility, shall not be subject to disclosure.

Case Law

“Lybarger”

MICHAEL LYBARGER v. CITY OF LOS ANGELES
40 Cal.3d 822; 221 Cal.Rptr. 529, 710 P.2d 329

INTRODUCTION

The California State Supreme Court looked at the issues in this case, and decided them on the basis of the Public Safety Officers Procedural Bill of Rights Act (Gov. code 3300 et.seq.). Essentially, the Court ruled that California Peace Officers who are being investigated administratively have "... no constitutional right to remain silent free of administrative sanction." However, the case offers clarifying language as to when an officer must be advised of his/her constitutional rights during an administrative investigation and it reaffirms the notion that statements taken under threat of disciplinary action are not admissible in any subsequent criminal proceedings.

CASE SUMMARY

Lybarger was one of several officers who were being investigated administratively for a variety of charges including false arrest, false imprisonment, falsification of records, acceptance of a bribe, and conspiracy. Investigators confirmed that a criminal investigation also was pending. Lybarger was warned that his refusal to cooperate would result in charges of insubordination, however he was not informed of his constitutional rights, nor was he informed that his statement in the administrative matter could not be used against him in any subsequent criminal proceeding. The Court observed that Section 3303 (~) "...indeed confers additional protection on police officers, requiring that they be immediately advised of their constitutional rights in a noncustodial, administrative setting." The Court also writes, "... although the officer under investigation is not compelled to respond to potentially incriminating questions, and his refusal to speak cannot be used against him in a criminal proceeding, nevertheless such refusal may be deemed insubordination leading to punitive action by his employer." In construing the Act, the Court balanced the apparent conflict by adopting the following: "...appellant should have been told, among other things, that although he had the right to remain silent and not incriminate himself, (1) his silence could be deemed insubordination, leading to administrative discipline, and (2) any statement made under the compulsion of the threat of such discipline could not be used against him in an subsequent criminal proceeding."

PRACTICAL APPLICATION

Whenever an officer is being investigated administratively for matters that may result in criminal charges, the Lybarger admonition described above should be administered.

“Garrity”

EDWARD J. GARRITY V. STATE OF NEW JERSEY
385 US 493, 17 L ed 2d 562, 87 5 Ct 616

INTRODUCTION

Garrity is a United States Supreme Court Case that deals with the exercise of Fifth Amendment rights by Police Officers and their Fourteenth Amendment protection from coerced statements in criminal investigations. In short, the Court ruled that police officers may not be terminated for exercising their Fifth Amendment rights and that statements obtained under threat of termination are coerced.

CASE SUMMARY

Garrity and others were under investigation for fixing traffic citations. Under a New Jersey State Law, they were informed of their constitutional right to remain silent but also were informed that if they exercised that right, they would be terminated. The statements that were given by them were subsequently used at their trial to help convict them. Each of the lower courts in this matter ruled that the statements were "voluntary." The U.S. Supreme Court, in a 5 to 4 decision, reversed. Justice Douglas wrote: "The choice given petitioners was whether to forfeit their jobs or to incriminate themselves. The option to lose their means of livelihood or to pay the penalty of self-incrimination is the antithesis of free choice to speak out or to remain silent." "We conclude that policemen, like teachers and lawyers, are not relegated to a watered-down version of constitutional rights." "We now hold the protection of the individual under the Fourteenth Amendment against coerced statements prohibits use in subsequent criminal proceedings of statements obtained under threat of removal from office, and that it extends to all, whether they are policemen or other members of our body politic."

PRACTICAL APPLICATION

Police Officers may not be terminated for exercising their constitutional right to remain silent in a criminal investigation. A statement obtained under threat of disciplinary action is not admissible in a subsequent criminal proceeding. You may hear the terms "Reverse Garrity Warning" or "Garrity Warning" used to describe the admonition that is given to an officer following the exercise of his/her constitutional right to remain silent in a criminal investigation and prior to him/her being ordered to give an administrative statement. Essentially, the officer is informed that the administrative statement will not be used in the criminal case.

In California, we utilize Lybarger, which accomplishes the same thing.

Disciplinary Due Process

“Skelly”

JOHN F. SKELLY v. STATE PERSONNEL BOARD

15 Cal.3d 194; 124 Cal.Rptr 14; 539 P.2d 774

INTRODUCTION

This decision is based upon United States and California State Constitutional due process rights. In the case of serious discipline the court has ruled that permanent, civil service employees, are entitled to certain pre-disciplinary due process protections. Essentially, these due process protections are accomplished by providing pre-disciplinary notices and hearings.

CASE SUMMARY

John F. Skelly was a doctor who was employed by the State Department of Health Care Services. He was terminated for a variety of reasons including taking extended lunch hours and drinking during the workday. As was the practice at the time, Skelly only was provided with a post disciplinary administrative appeal. Skelly asserted that this practice violated his due process rights. The court agreed with Skelly. In forming the basis for its decision, the court found, "...the California statutory scheme regulating civil service employment confers upon an individual who achieves the status of "permanent employee" a property interest in the continuation of his employment which is protected by due process." Or, said another way, Government cannot seize property without first providing due process. The court found that an after-the-fact administrative appeal did not satisfy these due process requirements. Although the court determined that pre-disciplinary due process does not require that the employee be provided a full trial-type evidentiary hearing it did find that, "...as a minimum, these pre-removal safeguards must include notice of the proposed action, the reasons therefore, a copy of the charges and materials upon which the action is based, and the right to respond, either orally or in writing, to the authority initially imposing discipline."

PRACTICAL APPLICATION

This case provides us with what commonly have become known as "Skelly Notices" and "Skelly Hearings." Generally speaking, these pre-disciplinary due process protections apply only to serious discipline. Under most circumstances a suspension of five (5) days or more is considered to be serious discipline. However, many employers provide pre-disciplinary notices for suspensions of any duration. The key elements of the "Skelly" process are the individual's right to receive all of the materials upon which the decision was based and the right to respond before the discipline is imposed.

“Lubey”

JAMES LUBEY v. CITY AND COUNTY OF SAN FRANCISCO

98 Cal.App.3d 340; 159 Cal.Rptr 440

INTRODUCTION

Generally speaking, the probationary period is viewed to be part of the selection process. The mere rejection of an employee during probation is not normally considered to be "punitive" in nature. This case deals with the situation where a probationary employee's termination is based on misconduct for which a permanent employee could be disciplined. In such cases, a probationary employee is entitled to a pre-disciplinary hearing, much the same as a "Skelly" hearing. However, the hearing is not based on a "property" interest in one's job. Instead the hearing is based on the employee's "Liberty" interest in his/her good name.

CASE SUMMARY

James Lubey and another probationary officer were terminated for misconduct. As is the case in most probationary separations, the officers were not provided pre-dismissal due process protections. The court recognized that probationary employees may ordinarily be dismissed without a hearing, but also ruled that an important exception to this rule exists "...where the probationary employee's job termination, or dismissal, is based on charges of misconduct which "stigmatize" his reputation, or "seriously impair" his opportunity to earn a living, or which "might seriously damage his standing or associations in his community". The court ruled that such actions may not deprive one of his/her "liberty" without first providing the due process protections of the Fourteenth Amendment. The court ruled further, that in such cases, the employee must be provided with "notice and opportunity for hearing appropriate to the nature of the case *before* the termination becomes effective." And, "...where there is such a deprivation of a "liberty interest" the employee's remedy mandated by the Due Process Clause of the Fourteenth Amendment is an opportunity to refute the charge and to clear his name.

PRACTICAL APPLICATION

Liberty Interest due process requirements afforded by "Lubey" look much the same as the Property Interest due process requirements afforded by "Skelly." However, the results can be quite different. In the case of a probationary employee, one could successfully clear one's "good name" and still be terminated. Employers are not required to show "just cause" to separate an employee while on probation.

Santa Barbara County Civil Service Rule 12
CIVIL SERVICE RULE 12 (CSR 12)
DISCIPLINARY ACTIONS

1201. Disciplinary Actions.

Any employee holding permanent status in the classified service may be disciplined for cause provided that the rules and regulations prescribed herein are followed and that any permanent employee has the right of appeal to the Commission except as herein provided. As used in this Rule, "disciplinary action" shall mean dismissal, suspension, disciplinary demotion, reduction in salary, disciplinary probation, or formal written reprimand.

1202. Peace Officer Disciplinary Actions.

If the employee disciplined is a "peace officer" as defined by Gov. Code 3301, then any disciplinary action must also comply with Gov. Code 3300 et seq., commonly referred to as the "Peace Officers Bill of Rights."

1203. Causes for Disciplinary Actions.

The following reasons shall be deemed sufficient for disciplinary action but such action shall not be limited to these reasons:

- a. Willful or negligent violation of the provisions of the Civil Service law or of these Rules, or other applicable written and published departmental rules, regulations, and policies which do not conflict with these Rules.
- b. Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform assigned tasks or failure to discharge duties in a prompt, competent, and responsible manner.
- c. Refusal to accept a reasonable and proper assignment from an authorized supervisor; insubordination.
- d. Careless, negligent, or improper use of County property, equipment, or funds, including use for private purposes or involving damage or risk of damage to property.
- e. Bribery or other unlawful gifts or gratuities.
- f. Failure to maintain satisfactory and harmonious working relations with the public or other employees.

- g. Absence without leave for five (5) consecutive working days or failure to report to work after a leave of absence has expired or after such leave of absence has been disapproved or revoked.
- h. Pattern of frequent failure to report for duty at the assigned time and place.
- i. Improper use of sick leave privileges.
- j. Unauthorized release of confidential information from official records, as defined by law.
- k. Conduct by a County officer or employee which discredits the County or which is incompatible with the due and faithful discharge of his or her duties.
- l. Conviction of a crime which relates to the qualifications, functions, or duties of the employee's position.
- m. Falsified job information to secure a position.
- n. Engaging in incompatible employment. (See Rule Seventeen.)
- o. Statements or conduct, or both, tending to interfere with the reasonable management and discipline of the County or any of the departments and divisions.
- p. Political activity in violation of the law as set forth in the County Code, section 27-29 and in Rule Eighteen.

1204. Notice of Proposed Disciplinary Action.

Before an appointing authority files any order referred to in Section 1206 of this Rule, which suspends, demotes, reduces in salary, or removes an employee having permanent status in the classified service, the pre-removal safeguards to the extent required by *Skelly v. State Personnel Board* (1975) 15 Cal. 3d 194, shall be followed. A written notice shall be furnished the employee which shall include the following:

- a. Notice of the proposed disciplinary action;
- b. The proposed effective date;
- c. The particular facts and specific grounds for the proposed action in sufficient detail to permit the employee to understand and to respond to them;
- d. An opportunity to examine any materials upon which the proposed action is based; and,
- e. The right to respond, either orally or in writing, to the appointing authority.

Copies of this notice and any other materials furnished the employee shall be filed with the Personnel Director. Such notice shall be given a reasonable period of time prior to the date

the discipline is to be imposed. Service of the Notice of Proposed Disciplinary Action shall be made as provided in these Rules.

1205. Emergency Circumstances.

In the event an employee's conduct is of such a nature that immediate removal of the employee is essential to avert harm to the County or to the public, the appointing authority may dispense with the notice requirement imposed by Section 1204. If the notice requirements are dispensed with, the appointing authority shall attempt to personally deliver to the employee a Notice of Proposed Disciplinary Action which contains the information set out in Section 1204. A copy of the notice shall be filed with the Personnel Director. If the employee cannot be found at employee's place of work or residence, the appointing authority may serve the notice by whatever means may be available and may thereafter proceed to impose discipline in the manner otherwise required by these rules.

1206. Notice of Disciplinary Action.

Disciplinary actions, except reprimands or disciplinary probation, shall be taken against an employee in the classified service having permanent status, by service upon such employee of a written Notice of Disciplinary Action. The employee may appeal such disciplinary action as provided in Rule Thirteen of these Rules. A copy of the Notice of Disciplinary action shall be furnished to the Personnel Director, and the appointing authority taking such disciplinary action shall retain a copy of said Notice.

The Notice of Disciplinary Action shall include the following:

- a. The effective date of the action;
- b. The nature of the disciplinary action;
- c. The particular facts and specific grounds for the proposed action in sufficient detail to permit the employee to understand and to respond to them;
- d. The acts or omissions upon which the causes are based, in ordinary and concise language with the dates and places thereof, when known;
- e. A copy of "Appeal and Hearing Procedure" (Rule Thirteen).

Service of a Notice of Disciplinary Action shall be made as provided in Rule Thirteen.

1207. Reprimand.

An appointing authority may reprimand an employee by furnishing him or her with a statement, in writing, of the specific reasons for such reprimand. A copy or notice of the reprimand shall be given to the Personnel Director for inclusion in the employee's personnel file. Such reprimands shall not be subject to appeal, but the employee shall have the right of rebuttal. The appointing authority may withdraw the reprimand or notice of reprimand at his or her discretion.

1208. Disciplinary Probation.

An employee may be placed on disciplinary probation for a specified period of time not to exceed one (1) year for each such instance, with the understanding that should the cause or causes for such action not be satisfactorily corrected or remedied during the period, subsequent disciplinary action may be taken. An employee shall have the right of appeal or investigation to any subsequent disciplinary action, or the Commission may conduct an investigation at its discretion.

1209. Suspension.

As a disciplinary measure, an appointing authority may temporarily remove an employee from his or her duties without pay. Any such suspension shall not exceed ninety calendar days in any one calendar year.

1210. Reduction in Salary.

An appointing authority may reduce the salary of an employee, for disciplinary reasons, provided that such reduction shall be to a step within the salary range of the position held by the employee. A new anniversary date shall be established in accordance with Rule Four unless otherwise recommended by the appointing authority and approved by the Personnel Director.

1211. Disciplinary Demotion.

An appointing authority may demote an employee, for disciplinary reasons, to any position with a lower salary allocation, provided the employee meets minimum qualifications for the lower-level position. Such demoted employee shall not be eligible for promotion for a period of six (6) calendar months.

1212. Dismissal.

The continued tenure of each employee who has permanent status shall be subject to his or her satisfactory conduct and the rendering of efficient service. Should the cause for disciplinary action so warrant, an employee may be dismissed.

1213. Absence-Without-Leave Termination.

An employee who is on unauthorized leave may be terminated in accordance with Rule Fourteen.

1214. Statute of Limitations.

No disciplinary action shall be valid against any County employee for any cause for discipline based on any provision of the initiative ordinance or Civil Service Rule, unless the Notice of Disciplinary Action is served within one (1) year after the cause for discipline, upon which said Notice is based, first arose. Disciplinary action based on fraud, embezzlement, or the falsification of records shall be valid, if the Notice of such is served within three (3) years after the discovery of such fraud, embezzlement, or falsification.

Santa Barbara County Civil Service Rule 13 CIVIL SERVICE RULE 13 (CSR 13) APPEAL & HEARING PROCEDURE

1301. General.

All hearings and investigations authorized by the initiative ordinance shall be governed by the initiative ordinance and by rules of practice and procedure adopted by the Commission. It is the intent of these rules that the conduct of any hearing or investigation shall be as informal as possible, and any informality in any proceeding or in the manner of taking testimony shall not invalidate any order, decision or rule made, approved or confirmed by the Commission. Employees shall be free from reprisals or other punitive actions for availing themselves of the appeal procedures.

1302. Definitions.

Unless the context requires otherwise, the definitions immediately hereinafter set forth govern the construction of this Rule.

Appeal: Any written request for relief from disciplinary or alleged discriminatory action.

Appellant: The person filing an appeal with the Commission.

Hearing Officer: An attorney at law admitted to practice before the courts of this state for at least five (5) years prior to his appointment by the Commission.

Investigation: An investigation which the Commission may consider desirable concerning the administration of personnel or conditions of employment in the County service.

Respondent: The person or County department whose disciplinary action is challenged by the appellant.

1303. Hearing.

Following the acceptance of an appeal, the Commission shall commence a hearing on an appeal of a disciplinary action within twenty (20) calendar days after the next regularly scheduled Civil Service Commission meeting, unless otherwise waived by both parties. The appellant may appear personally, produce evidence, and have counsel and a public or a closed hearing as mutually agreed upon. At the conclusion of the hearing, the Commission shall affirm, modify, or revoke the order.

The Commission may, however, at its discretion assign any hearing under this section to a duly qualified hearing officer who shall conduct a hearing pursuant to these rules, and upon conclusion prepare a proposed decision pursuant to §1316.

a. The Commission shall proceed informally and not be bound by formal procedures and rules of evidence, except where required by the Administrative Procedures Act (California Government Code Sections 11370, et seq.) At any hearing or investigation, the Commission shall have the power to require, by subpoena, the attendance of witnesses and the production of books and papers relevant to the hearing or investigation.

b. Oaths. Each Commissioner or the hearing officer if so delegated shall have the power to administer oaths to such witnesses.

c. Hearing Officer. The Commission shall employ a hearing officer to act as the presiding officer in all cases involving appeals from disciplinary action unless otherwise agreed upon.

d. Subpoenas. Subpoenas shall be signed and obtained from the Secretary of the Civil Service Commission.

e. Pre-Hearing Conference. In cases involving more complex or serious disciplinary actions, the Commission shall, at its discretion, order that a pre-hearing conference be held to be attended by the appellant's representative, a representative of the County and a hearing officer designated by the Commission. At such pre-hearing conference the hearing officer shall meet with the parties to narrow the issues, disclose the names of witnesses to be used by each side, list and mark documents to be used in evidence and to the extent possible discuss settlement.

In the event the Commission does not order a pre-hearing conference, the hearing officer may at his discretion or upon the request of a party and with the consent and approval of the Chairperson of the Commission order that a pre-hearing conference be held.

f. Motion to Terminate Proceeding. Where any party objects to an accusation on the ground that it does not state acts or omissions upon which the Commission may proceed, the Commission may, at its discretion, hold a hearing to decide that issue, and if it decides affirmatively, may dismiss that portion or all of the action pertaining to those acts or omissions.

1304. Discrimination Complaints.

Persons alleging discrimination under County Code Section 27-30 and Civil Service Rule Five shall have the right to challenge the alleged discrimination at a hearing before the Commission, but shall first file the complaint with the County Affirmative Action Officer, who shall perform an investigation and file a factual report with the Commission within ninety (90) days. Persons retain the right to pursue an appeal directly to the Civil Service Commission following the report from the County Affirmative Action Officer or in the event the County Affirmative Action Officer does not acknowledge the complaint within thirty (30) days or does not file a report within ninety (90) days.

The Commission shall consider accepting the complaint at its next Commission meeting, and if accepted, a hearing shall be set within 20 calendar days. Rule 1303 shall govern the procedures for discrimination hearings by the Commission.

1305. Investigations.

An informal method by the Commission of inquiring into the administration of personnel or conditions of employment in County service. The Commission shall have the power to subpoena and require the attendance of witnesses and the production thereby of documents to the investigation. Such investigation shall be considered non-adversary, and witnesses shall not be required to testify under oath. The parties shall not be represented by counsel except that an employee organization representative may be present and participate in the investigation. Any findings, conclusions or recommendations may be reported to the Board of Supervisors and the Administrative Officer.

Before the Commission considers a request for an investigation or grants such a request, it is recommended that the employee attempt to affect a resolution of the problem at the departmental level. Before the Commission grants such an investigation, the department(s) which is (are) affected shall be served with a request for investigation and with a written notice setting forth the date, time, and location where the Commission will hear the request or motion for an investigation. Service shall be made on the department head by mail no later than 15 days or personally delivered no later than 5 days before the date the Commission will consider the request on motion for investigation.

1306. Amended or Supplemental Notice of Disciplinary Action.

At any time before an employee's appeal is submitted to the Commission or its authorized representative for decision, the appointing authority may, with the consent of the Commission or its authorized representative, serve on the employee and file with the Secretary of the Commission, an amended or supplemental Notice of Disciplinary action. If the amended or supplemental Notice presents new causes or allegations, the employee shall be afforded a reasonable period of time to answer and to prepare a defense thereto. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegations may be made orally at the hearing or investigation and shall be noted in the record.

1307. Service of Notice, Paper, or Other Document.

Whenever any notice, paper, or other document, except a subpoena, is directed to be given to or served upon any person or County department, such notice, paper, or document may be personally served or it may be served by mail to the last known residence or business address of the addressee. Unless otherwise specifically provided in these Rules, the giving of notice of matters to be heard or considered by the Commission shall be governed by Commission rule. Service by mail of the charges in a disciplinary proceeding, the notice of an employee suspension, and the notice of a probationer's rejection, is made by the enclosure of such charges or notice in a sealed envelope, addressed to the last known address of the person to be served, certified with return receipt requested, and the depositing of it in the United States mail with postage fully prepaid. Service is complete on mailing.

Service by mail of any other notice, paper, or document is made in the manner provided by the Code of Civil Procedure, Sections 1012 and 1013, and any amendments and successors thereto. Proof of service, either personally or by mail, shall be made by declaration under penalty of perjury.

1308. Appeal.

No later than ten (10) working days after service of the Notice of Disciplinary action, the employee affected may file with the Secretary of the Commission c/o County Personnel Department, a written admission or denial of the material allegations of the Notice of Disciplinary Action. The answer shall include a request for hearing as provided in these Rules. Upon filing of a request for a hearing by an employee, the Personnel Director shall make available to the Secretary of the Commission, the Notice of Proposed Disciplinary action and the Notice of Disciplinary Action. With the consent of the Commission or its authorized representative, an amended answer may subsequently be filed. If the employee affected fails to answer within the time specified, or after answer, withdraws his appeal, the disciplinary action taken by the appointing authority shall be final. A copy of the employee's answer and of any amended answer shall promptly be filed with the Personnel Director and with the appointing authority. 'Working days' for purposes of this section shall mean Monday through Friday. If the last day for filing an answer falls on a holiday on which the County Personnel Department is closed, then the filing deadline shall be extended to the next day the County Personnel Department is open for business.

Upon receipt of an appeal, the secretary of the Commission in conjunction with the Chair of the Commission and the Commission's legal counsel shall ascertain if the appeal is (1) an appealable action under the Civil Service rules, and (2) has been timely filed with the Commission. If so advised, the secretary shall accept the appeal on behalf of the Commission, assign a hearing officer to the appeal and notify the parties of the acceptance and assignment of the hearing officer.

If the Commission's legal counsel advises that the request is not a proper appeal, the matter shall be scheduled before the Commission at its next regular meeting to consider whether it has jurisdiction to accept the appeal.

1309. Objections to Notice of Disciplinary Action.

The employee affected may file with the Secretary of the Commission objections to the Notice of Disciplinary Action on the following grounds:

- a. It does not state acts or omissions upon which the Commission may proceed;
- b. The form of the Notice of Disciplinary Action is so indefinite or uncertain that he cannot identify the transaction or prepare his defense; or
- c. Presentation of new matter by way of defense.
- d. The employee may also plead by way of confession and direct the Commission to any mitigating and extenuating circumstances.

Objections to the Notice of the Disciplinary Actions shall be part of the answer in Section 1308.

1310. Continuances.

The parties may stipulate for a continuance of the proceeding or a party may apply to the Commission for continuance for good cause shown, or the Commission on its own for good cause may continue said proceedings.

1311. Discovery.

After initiation of an appeal in which an appellant or other party is entitled to a hearing on the merits, a party, upon written request or written interrogatories made to another party, prior to the calling of the first witness and within ten (10) calendar days after filing of an appeal, is entitled to:

- a. Obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing; and
- b. Inspect and make a copy of any of the following in the possession or custody or under the control of the other party:
 1. A statement of a person, other than the respondent, named in the initial administrative pleading, or any additional pleading, when it is claimed that the act or omission of the respondent as to such person is the basis for the appeal;

2. A statement pertaining to the subject matter of the appeal made by any party to another party or person;

3. Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions, or events which are the basis for the appeal not included in 1 or 2 above;

4. For the purpose of this Rule, "statements" include written statements by the person, signed or otherwise authenticated by him, stenographic, mechanical, electrical, or other recordings, or transcripts thereof, of oral statements by the person and written reports or summaries of such oral statements.

Upon a showing of good cause, the time in which to complete discovery may be extended for a reasonable period of time.

Nothing in these Rules shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

1313. Request for Admission of Facts and Genuineness of Documents.

After initiation of an appeal in which an appellant or other party is entitled to a hearing on the merits, a party may, upon written request made to another party within ten (10) calendar days after filing of an appeal, file and serve upon such party a request for the admission of the genuineness of any relevant documents described in the request or the truth of any relevant matters of fact set forth in Section 2033 of the California Code of Civil Procedure.

1314. Depositions Upon Oral Examination.

Any party to appeal may take a deposition of any person upon oral examination in accordance with the provisions of the California Code of Civil Procedure, Section 2019, within ten (10) calendar days after filing an appeal.

1315. Petition to Compel Discovery and Proceedings and Sanction Thereon.

Any party claiming his request for discovery pursuant to Sections 1311, 1313, or 1314, has not been complied with, may serve and file with the Secretary of the Commission a verified petition to compel discovery naming the party refusing or failing to comply with Sections 1311, 1313, or 1314. The petition shall state facts showing a party failed or refused to comply with the particular discovery Rule, a description of the matters sought to be discovered, the reason or reasons why such matter is discoverable under that Rule, and the ground or grounds of the refusal so far as known to petitioner.

The petition shall be served upon all parties and filed within five (5) days after a party first evidenced his failure or refusal to comply with Sections 1311, 1313, or 1314. If from a reading of the petition, the hearing officer is satisfied that the petition sets forth good cause for relief, the hearing officer shall issue an order to show cause; otherwise, the hearing officer shall enter an order denying the petition. The order to show cause shall be served upon all parties in the appeal by personal delivery or certified mail and shall be returnable not later than five (5) days from its issuance.

The appeal shall be stayed during the pendency of the proceedings described in this section, only if the hearing officer issues an order to show cause.

Where the matter sought to be discovered is under the custody or control of the refusing party and said party asserts that such matter is not a discoverable matter under the provisions of Section 1315 or is privileged against disclosure under such provisions, the hearing officer may order disclosure of such matters as are provided in subdivision (b) of Section 915 of the Evidence Code and examine such matters in accordance with the provisions thereof.

The order of the hearing officer shall be final and not subject to review by appeal. A party aggrieved by such order, or any part thereof, may within five (5) days after service of the order, serve and file in the Superior Court, a petition for writ of mandamus to compel the hearing officer to set aside or otherwise modify his order.

Where the hearing officer finds that a party or his attorney failed or refused to comply with Sections 1311, 1313, or 1314 without substantial justification, and a petition has been filed to compel discovery pursuant to this Rule, the hearing officer may award costs and reasonable attorney's fees to the opposing party.

All sanctions available under California Code of Civil Procedure, Section 2034, that are not inconsistent with this Rule are available to any party to the administrative proceeding.

1316. Decision.

In all cases referred or assigned to a hearing officer by the Commission for hearing or investigation by him, he shall prepare a proposed decision in such form that it may be adopted as the decision in the case. The proposed decision shall include findings of fact which may be stated in the language of the pleadings or by reference to them. A copy of the proposed decision shall be filed with the Commission as a public record. The hearing officer may be present during the consideration of the case by the Commission and, if requested, shall assist and advise the Commission. Upon the filing of a proposed decision, the Commission may adopt it in its entirety, or may reduce the disciplinary actions set forth therein and adopt the balance of the proposed decision, or may itself decide the case upon the record, including the transcript with or without taking additional evidence or additional argument or may refer the case to the same or another hearing officer, to take additional evidence.

If the case is re-referred to a hearing officer, he shall similarly prepare a proposed decision as above provided, upon the additional evidence taken and the transcript and

other papers making up the record of the prior hearing, which may be adopted by the Commission as filed.

1317. Exclusion of Witnesses.

On the motion of any party, including the parties to a disciplinary proceeding, the Commission or the hearing officer in his discretion, may exclude from the hearing room any witnesses not at the time under examination; but a party to the proceeding or his designee in lieu thereof, or his counsel cannot be excluded.

1318. Rehearing.

Within five (5) days after service on him of a copy of the decision any party including the employee or the appointing authority may apply for a rehearing by filing with the Commission a written petition therefor. Within ten (10) days after such filing, the Commission shall cause a copy of the petition for rehearing to be served upon the other parties to the proceeding.

Within twenty (20) days after such service of the petition for rehearing, the Commission, itself, shall either grant or deny the petition in whole or in part. Failure to act upon a petition for rehearing within this twenty-day period is a denial of the petition. The days shall be computed on a calendar basis. If a rehearing is granted, the Commission may rehear the case itself on the record of the prior hearing and such additional evidence and argument as may be permitted, or it may refer it to a hearing officer. A case so referred to a hearing officer shall be subject to the procedure provided in Sections 1303 and 1316 above.

1319. Finality of Decision.

Unless a proper application for rehearing is made, every decision shall become final five (5) days after service by the Commission of a copy of such decision upon the parties to the proceeding in which the decision is rendered.

1320. Effect of Failure to Apply for Rehearing.

The right to petition a court or writ of mandate shall not be affected by the failure to apply for rehearing by filing written petition therefore with the Commission.

1321. Attorney Fees in Disciplinary Actions.

If the appellant is found innocent of all charges, he shall be restored forthwith to his previous position and status with all rights and privileges pertaining thereto and with full back pay for time lost, and the County shall also pay attorney fees, where an attorney was employed by the appellant, in an amount not to exceed the amount allowed by the Municipal Courts in the County for court-appointed counsel in contested trials in criminal actions. Such payment shall be restricted to permanent employees who avail themselves of such counsel for appeal of disciplinary action only.

1322. Perpetuation of Proceeding.

The proceedings at the hearing shall be reported by a machine, shorthand, phonographic reporter, or otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription. The means of reporting shall be at the discretion of the Commission or their authorized representative.

1323. Commencement of Action.

No action or proceeding shall be brought by any person having or claiming to have a claim of action or complaint or ground for issuance of any complaint or legal remedy for the wrongs based on or related to the Santa Barbara County Civil Service Law or the administration thereof unless such action or proceeding is commenced and served within one hundred (100) days after such cause of action or complaint first arose.

1324. Judicial Review.

Judicial review may be had by filing a petition for a writ of mandate.

Code of Civil Procedure §1094.6 as it may be amended from time to time shall be applicable to the judicial review of Civil Service Commission decisions.

The Commission shall make available to the petitioner at petitioner's expense the complete record of the proceedings, and in the case of proceedings which exist on a tape or other electronic record, may satisfy this obligation by providing a duplicate copy of the tape or other record.

The right to petition shall not be affected by the failure to seek reconsideration before the Civil Service Commission.

1325. Prohibition Against Reprisal Action.

The rights of County officers and employees to petition and appear before the Civil Service Commission shall not be infringed.

No manager or supervisor shall take reprisal action through any act of intimidation, restraint, coercion, discrimination, or other adverse employment decision against any employee or applicant for employment who seeks redress before the Commission or who requests the Commission pursuant to Civil Service Rule 1305 to conduct an investigation into departmental personnel practices or employment conditions. Nor shall any reprisal action be taken against any employee duly called to testify before the Commission on any matter.

This section is not intended to prevent managers and supervisors from taking any personnel action affecting an employee or applicant for employment based on causes apart from the employee's or applicant's petition to and/or appearance before the Commission. Nor is it intended to authorize employees who appear before the Commission on their own behalf to be paid for the time spent away from the work site.

Further, this section is not intended to prevent a manager or supervisor from taking appropriate personnel action when evidence shows any of the following:

- (1) The employee has disclosed information that he or she knows to be false or has disclosed information with intentional disregard for the truth or falsity thereof.
- (2) The employee has unlawfully disclosed confidential information from records which are closed to public inspection pursuant to law.
- (3) The employee has unlawfully disclosed information which is confidential under any other provision of law.

For the purposes of this rule, "supervisor" shall mean any employee, regardless of job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend this action, if in connection with the foregoing, the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

An employee alleging reprisal under this rule may appeal to the Commission pursuant to Rule 1301.

If after a hearing of an appeal of unlawful reprisal, the Civil Service Commission determines that a violation of Rule 1325 has occurred, the Commission may initiate any appropriate relief, including, but not limited to, reinstatement, back pay, restoration of lost service credit, or if appropriate, the expungement or correction of an adverse record of the county employee or applicant for county employment who was the subject of the alleged acts of misconduct prohibited by Rule 1325, or any other corrective action to reverse the reprisal and its effect.

Public Safety Officers' Procedural Bill of Rights Act **(POBR)**

CALIFORNIA GOVERNMENT CODE SECTIONS 3300-3311

GC§ 3300. Peace Officer Bill of Rights

This chapter is known and may be cited as the Public Safety Officers Procedural Bill of Rights Act.

GC§ 3301. Peace Officer-Defined

For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code. The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

GC§ 3302. Political Activity

(a) Except as otherwise provided by law, or whenever on duty or in uniform, no public safety officer shall be prohibited from engaging, or be coerced or required to engage, in political activity.

(b) No public safety officer shall be prohibited from seeking election to, or serving as a member of, the governing board of a school district.

GC§ 3303. Investigation-Conditions

When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If the interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for any off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

(b) The public safety officer under investigation shall be informed prior to the interrogation of the rank, name, and command of the officer in charge of the

interrogation, the interrogating officers, and all other persons to be present during the interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.

(d) The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated. The person under interrogation shall be allowed to attend to his or her own personal physical necessities.

(e) The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his or her express consent nor shall his or her home address or photograph be given to the press or news media without his or her express consent.

(f) No statement made during interrogation by a public safety officer under duress, coercion, or threat of punitive action shall be admissible in any subsequent civil proceeding. This subdivision is subject to the following qualifications:

(1) This subdivision shall not limit the use of statements made by a public safety officer when the employing public safety department is seeking civil sanctions against any public safety officer, including disciplinary action brought under Section 19572.

(2) This subdivision shall not prevent the admissibility of statements made by the public safety officer under interrogation in any civil action, including administrative actions, brought by that public safety officer, or that officer's exclusive representative, arising out of a disciplinary action.

(3) This subdivision shall not prevent statements made by a public safety officer under interrogation from being used to impeach the testimony of that officer after an in camera review to determine whether the statements serve to impeach the testimony of the officer.

(4) This subdivision shall not otherwise prevent the admissibility of statements made by a public safety officer under interrogation if that officer subsequently is deceased.

(g) The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports that are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation.

(h) If prior to or during the interrogation of a public safety officer it is deemed that he or she may be charged with a criminal offense, he or she shall be immediately informed of his or her constitutional rights.

(i) Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, at his or her request, shall have the right to be represented by a representative of his or her choice who may be present at all times during the interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for non-criminal matters. This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.

(j) No public safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn member of his or her department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.

GC§ 3304. Rights-Punitive Action Prohibited

(a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure.

Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination.

(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency against any public safety officer who has successfully completed the probationary period that may be required by his or her employing agency without providing the public safety officer with an opportunity for administrative appeal.

(c) No chief of police may be removed by a public agency, or appointing authority, without providing the chief of police with written notice and the reason or reasons therefore and an opportunity for administrative appeal.

For purposes of this subdivision, the removal of a chief of police by a public agency or appointing authority, for the purpose of implementing the goals or policies, or both, of the public agency or appointing authority, for reasons including, but not limited to, incompatibility of management styles or as a result of a change in administration, shall be sufficient to constitute "reason or reasons."

Nothing in this subdivision shall be construed to create a property interest, where one does not exist by rule or law, in the job of Chief of Police.

(d) Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed disciplinary action within that year, except in any of the following circumstances:

(1) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(2) If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(3) If the investigation is a multi-jurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(4) If the investigation involves more than one employee and requires a reasonable extension.

(5) If the investigation involves an employee who is incapacitated or otherwise unavailable.

(6) If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

(7) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(8) If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.

(e) Where a pre-disciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.

(f) If, after investigation and any pre-disciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the public safety officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable for discipline.

(g) Notwithstanding the one-year time period specified in subdivision (c), an investigation may be reopened against a public safety officer if both of the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

(2) One of the following conditions exist:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the public safety officer's pre-disciplinary response or procedure.

(h) For those members listed in subdivision (a) of Section 830.2 of the Penal Code, the 30-day time period provided for in subdivision (e) shall not commence with the service of a preliminary notice of adverse action, should the public agency elect to provide the public safety officer with such a notice.

(Am 1998 SB 2215 Ch. 786)

GC§ 3304.5. Administrative Appeal

An administrative appeal instituted by a public safety officer under this chapter shall be conducted in conformance with rules and procedures adopted by the local public agency.

(Ad 1998 SB 1662 Ch. 263)

GC§ 3305. Personnel File-Adverse Comments

No public safety officer shall have any comment adverse to his interest entered in his personnel file, or any other file used for any personnel purposes by his employer, without the public safety officer having first read and signed the instrument containing the adverse comment indicating he is aware of such comment, except that such entry may be made if after reading such instrument the public safety officer refuses to sign it. Should a public safety officer refuse to sign, that fact shall be noted on that document, and signed or initialed by such officer.

GC§ 3306. Response to Adverse Comments

A public safety officer shall have 30 days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to, and shall accompany, the adverse comment.

GC§ 3306.5 Inspection of Personnel Files

(a) Every employer shall, at reasonable times and at reasonable intervals, upon the request of a public safety officer, during usual business hours, with no loss of compensation to the officer, permit that officer to inspect personnel files that are used or have been used to determine that officer's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each employer shall keep each public safety officer's personnel file or a true and correct copy thereof, and shall make the file or copy thereof available within a reasonable period of time after a request therefore by the officer.

(c) If, after examination of the officer's personnel file, the officer believes that any portion of the material is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted. Any request made pursuant to this subdivision shall include a statement by the officer describing the corrections or deletions from the personnel file requested and the reasons supporting those corrections or deletions. A statement submitted pursuant to this subdivision shall become part of the personnel file of the officer.

(d) Within 30 calendar days of receipt of a request made pursuant to subdivision (c), the employer shall either grant the officer's request or notify the officer of the decision to refuse to grant the request. If the employer refuses to grant the request, in whole or in part, the employer shall state in writing the reasons for refusing the request, and that written statement shall become part of the personnel file of the officer.

(Amended by stats. 2000, AB 2267, Chap. 209)

GC§ 3307. Lie Detector Testing

(a) No public safety officer shall be compelled to submit to a lie detector test against his or her will. No disciplinary action or other recrimination shall be taken against a public safety officer refusing to submit to a lie detector test, nor shall any comment be entered anywhere in the investigator's notes or anywhere else that the public safety officer refused to take, or did not take, a lie detector test, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that the public safety officer refused to take, or was subjected to, a lie detector test.

(b) For the purpose of this section, "lie detector" means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device, whether mechanical or electrical, that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

Am 1998 AB 2293 Ch. 112

GC§ 3307.5. Public Safety Officer Photograph or Identity on Internet

(a) No public safety officer shall be required as a condition of employment by his or her employing public safety department or other public agency to consent to the use of his or her photograph or identity as a public safety officer on the Internet for any purpose if that officer reasonably believes that the disclosure may result in a threat, harassment, intimidation, or harm to that officer or his or her family.

(b) Based upon his or her reasonable belief that the disclosure of his or her photograph or identity as a public safety officer on the Internet as described in subdivision (a) may result in a threat, harassment, intimidation, or harm, the officer may notify the department or other public agency to cease and desist from that disclosure. After the notification to cease and desist, the officer, a district attorney, or a United States Attorney may seek an injunction prohibiting any official or unofficial use by the department or other public agency on the Internet of his or her photograph or identity as a public safety officer. The court may impose a civil penalty in an amount not to exceed five hundred dollars (\$500) per day commencing two working days after the date of receipt of the notification to cease and desist.

Added by Stats. 1999, AB 1586, Ch. 338, Sec. 1 Effective September 7, 1999

GC§ 3308. Disclosure of Property-Finances

No public safety officer shall be required or requested for purposes of job assignment or other personnel action to disclose any item of his property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of his family or household) unless such information is obtained or required under state law or proper legal procedure, tends to indicate a conflict of interest with respect to the performance of his official duties, or is necessary for the employing agency to ascertain the desirability of assigning the public safety officer to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

GC§ 3309. Locker/Storage Space Searches

No public safety officer shall have his locker, or other space for storage that may be assigned to him searched except in his presence, or with his consent, or unless a valid search warrant has been obtained or where he has been notified that a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency.

GC§ 3309.5. Rights Protected

(a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to him or her by this chapter.

(b) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this chapter.

(c)(1) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of a like or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer.,

(2) If the court finds that a bad faith or frivolous action or a filing for an improper purpose has been brought pursuant to this chapter, the court may order sanctions against the party filing the action, the parties attorney, or both pursuant to Sections 128.6 and 128.7 of the Code of Civil Procedure. Those sanctions may include, but not be limited to, reasonable expenses, including attorney's fees, incurred by a public safety department, as the court deems appropriate. Nothing in this paragraph is intended to subject actions or filings under this section to rules or standards that are different from those applicable to other civil actions or filings subject to Section 128.6 or 128.7 of the Code of Civil Procedure.

(d) In addition to the extraordinary relief afforded by this chapter, upon a finding by a superior court that a public safety department, its employees, agents, or assigns, with respect to acts taken within the scope of employment, maliciously violated any provision of this chapter with the intent to injure the public safety officer, the public safety department shall, for each and every violation, be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) to be awarded to the public safety officer whose right or protection was denied and for reasonable attorney's fees as may be determined by the court. If the court so finds, and there is sufficient evidence to establish actual damages suffered by the officer whose right or protection was denied, the public safety department

shall also be liable for the amount of the actual damages. Notwithstanding these provisions, a public safety department may not be required to indemnify a contractor for the contractor's liability pursuant to this subdivision if there is, within the contract between the public safety department and the contractor, a "hold harmless" or similar provision that protects the public safety department from liability for the actions of the contractor. An individual shall not be liable for any act for which a public safety department is liable under this section.

(SB 1516, signed by Governor Davis on 09/30/2002)

GC§ 3310. Chapter Substitution by Agency

Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure.

GC§ 3311. Mutual Aid-Chapter Application

Nothing in this chapter shall in any way be construed to limit the use of any public safety agency or any public safety officer in the fulfilling of mutual aid agreements with other jurisdictions or agencies, nor shall this chapter be construed in any way to limit any jurisdictional or interagency cooperation under any circumstances where such activity is deemed necessary or desirable by the jurisdictions or the agencies involved.

GC§ 3312. American Flag Pins

Notwithstanding any other provision of law, the employer of a public safety officer may not take any punitive action against an officer for wearing a pin or displaying any other item containing the American flag, unless the employer gives the officer written notice that includes all of the following:

- (a) A statement that the officer's pin or other item violates an existing rule, regulation, policy, or local agency agreement or contract regarding the wearing of a pin, or the displaying of any other item, containing the American flag.
- (b) A citation to the specific rule, regulation, policy, or local agency agreement or contract that the pin or other item violates.
- (c) A statement that the officer may file an appeal against the employer challenging the alleged violation pursuant to applicable grievance or appeal procedures adopted by the department or public agency that otherwise comply with existing law.

GC§ 3313. Revision of Test Claim

In the 2005-06 fiscal year, the Commission on State Mandates shall review its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim and make any modifications necessary to this decision to clarify whether the subject legislation imposed a mandate consistent with the California Supreme Court Decision in San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859 and other applicable court decisions. If the Commission on State Mandates revises its statement of

decision regarding the Peace Officer Procedural Bill of Rights test claim, the revised decision shall apply to local **government** Peace Officer Procedural Bill of Rights activities occurring after the date the revised decision is adopted.



Exemplar Investigations

Exemplar Administrative Investigation Files

These exemplar administrative investigation files are provided as examples of the manner in which administrative investigations “can” be conducted and documented. Please note the word “can” is used instead of “shall” or “should”, as each investigation is different and will likely require somewhat different investigative steps and documentation. However, in reviewing these examples (in conjunction with the other information within this manual), the user of this manual should be able to extract a sufficient understanding as to how most administrative investigations can be conducted and documented.

Example 1:

This is an administrative investigation of a citizen complaint, alleging a laundry list of potentially inappropriate performance/conduct by a Sheriff’s deputy, including unlawful detention and unlawful/excessive force.

- This investigation was conducted and documented in a formal manner.
 - Most administrative investigations should be conducted and documented in a manner similar to this example, unless the investigator obtains permission to or is directed to do otherwise (refer to example 3).
- In addition to the example of the overall printed file, we have also provided an example of the manner in which the file contents can be assembled and saved onto a computer media disk, to be included with the file.

Example 2:

This is an administrative investigation of a citizen complaint, alleging a number of different potential policy/law violations. As the investigation progressed, it became apparent that some of our policies and procedures were flawed and needed to be changed. Ultimately, it was determined the complainant’s allegations against the individual Sheriff’s employees were unfounded, but that our policies and procedures caused errors in the handling of the complainant.

- This investigation was conducted and documented in a formal manner.
- The flaws within our policy/procedures were documented, along with the actions that were taken to remedy the flaws.
- In addition to the example of the overall printed file, we have also provided an example of the manner in which the file contents can be assembled and saved onto a computer media disk, to be included with the file.

Example 3:

This is an internally generated administrative investigation. Although the circumstances were brought to our attention by outside sources, the decision to investigate the circumstances was completely internal, as opposed to a submitted citizen complaint (as was present in Examples 1 & 2).

- This investigation was conducted and documented in a formal manner.

Example 4:

This is an administrative investigation of a citizen complaint, alleging that a deputy violated the complainant’s child’s constitutional rights and that the deputy was rude to the

parent. Shortly after beginning the investigation, the administrative investigator received substantial information/evidence that the most significant allegations (violation of rights) were unfounded and that a relatively minor allegation (rudeness) had occurred and was previously handled appropriately by the deputy's immediate supervisor.

- The investigator conferred with his/her chain of command and received authorization/direction to conduct and document the investigation in an informal manner.
 - *Absent such permission/direction, administrative investigations should be conducted and documented in a manner more consistent with Examples 1 and 2.*
- Important: Although the documentation within this file is much less formal than Examples 1 and 2, it still fully addresses each allegation made by the complainant and establishes the basis for the findings of the investigation. It also contains sufficient evidence/documentation to allow for an objective review of the investigation. This was accomplished through the inclusion of:
 - Written statements of the complainant.
 - A copy of the deputy's report.
 - A copy of the recorded contact between the deputy and the complainant's child.



**Exemplar Investigation
EXAMPLE #1**

Santa Barbara County
Sheriff's Department

ADMINISTRATIVE
INVESTIGATION
Professional Standards Unit

THIS REPORT IS CONFIDENTIAL. ANY INDIVIDUAL NOT SPECIFICALLY AUTHORIZED IN WRITING BY THE SHERIFF WHO EXAMINES THIS REPORT, OR WHO REMOVES IT FOR ANY PURPOSE FROM THE PROFESSIONAL STANDARDS UNIT, WILL BE SUBJECT TO DEPARTMENTAL DISCIPLINE AND/OR CRIMINAL PROSECUTION. DO NOT PROCEED BEYOND THIS COVER SHEET UNLESS CONFIDENT OF YOUR AUTHORIZATION.

CONFIDENTIAL

**Professional Standards Unit
Investigation
2000-200**

Subject: Sheriff's Deputy Ronald Reagan

Administrative investigation of a citizen complaint filed by Anthony Aardvark on or about February 3, 2000. In the complaint and subsequent interview, Mr. Aardvark made a number of allegations against Deputy Reagan, including:

- Overreaction to circumstances
- Unlawful entry into Aardvark's residence
- Unlawful arrest of Aardvark
- Excessive force
- Intentional embarrassment of complainant

Date of Occurrence: January 32, 2000

Submitted by:
Sergeant William Shakespeare
Administrative Investigation 2000-200

Table of Contents

Investigative Report

Conclusion

- Investigative Conclusion

Interviews & Reports

1. Interview of Anthony Aardvark
 - a. Copy of written complaint submitted by Aardvark.
2. Interview of Janice Joplin
3. Review of audio/video evidence
 - a. DVD media disk containing audio/video evidence
4. Interview of Deputy Ronald Reagan
 - a. Copy of Deputy Reagan's arrest report
5. Interview of Deputy George Washington
 - a. Copy of Deputy Washington's supplemental report
6. Interview of Sergeant Abraham Lincoln
7. Interview of Deputy Theodore Roosevelt
8. Interview of Deputy John Adams
9. Interview of reporting party, Betsy Ross

Documents

1. Sheriff's documents extracted from CAD, RMS and JMS

Miscellaneous

One DVD media disk containing all files related to this investigation

- Interview recordings
- COBAN and dispatch recordings
- Photographs
- All documentation that is mentioned within this file, which was not physically printed for inclusion in the file

Professional Standards Unit

Investigative Report 2000-200

On February 3, 2000, the Sheriff's Professional Standards Unit received a mailed Citizen's Complaint form. The complaint form was apparently filled out and submitted by Anthony Aardvark on or about February 2, 2000. The information within the citizen complaint form indicated that Aardvark was complaining about his arrest by Deputy Reagan on January 32, 2000, at his 123 First Street residence. In the complaint, Aardvark claimed:

- That Deputy Reagan used excessive force resulting in Aardvark being injured.
- That Deputy Reagan had threatened to break Aardvark's neck.
- That Deputy Reagan had choked Aardvark in his home.

I sent Aardvark a letter acknowledging our Office's receipt of his complaint and provided him with a copy of the original submitted complaint, as is required by California law. Within the letter, I informed Aardvark that he would be contacted in the near future to obtain further information.

On April 14, 2000, I obtained the Sheriff's report documenting this incident, case number 00-99923, authored by Deputy Reagan, with a supplemental report authored by Deputy Washington. The report documented circumstances whereby:

The Sheriff's Department received a 911 call regarding an apparent father/son domestic dispute on First Street, in the unincorporated area of Lompoc. Upon arrival, Deputy Reagan found Anthony Aardvark and Janice Joplin engaged in a verbal argument on the back patio of their property located at 123 First Street. Deputy Reagan attempted to contain and control the situation until the arrival of back-up officers.

While Deputy Reagan attempted to contain the situation, Anthony Aardvark attempted to go into the residence. Deputy Reagan stopped Aardvark, asked him to sit on the ground and directed that he not go into the house. Aardvark initially complied with this direction, but then became uncooperative and again attempted to go back into the house. Deputy Reagan once again attempted to prevent Aardvark from doing this. On this second occasion, Aardvark became combative. Deputy Reagan utilized an "upper body control hold" to restrain Aardvark and prevent him from going into the residence. Aardvark continued to resist and struggle in an apparent attempt to free himself. Deputy Reagan maintained the upper body control hold until such time as Deputy Washington arrived.

When Deputy Washington arrived, Deputy Reagan rolled Aardvark to his stomach and the two deputies handcuffed him. There was no indication within the report that Deputy Reagan upgraded the upper body control hold into a carotid restraint and/or that he rendered Aardvark unconscious.

The information within the offense and arrest report appeared to constitute a lawful detention, lawful arrest, and a lawful and appropriate use of force to affect the detention and arrest.

I printed and reviewed the Sheriff's Computer Aided Dispatch (CAD) report, documenting the call for service that initiated the deputies' response to Aardvark's residence. I noted that one of Aardvark's neighbors, Betsy Ross, called 911 and reported a 415 disturbance between a father and a son. It was further documented that one of the two parties was heard yelling for help. The contents of the CAD Report appeared consistent with the arrest report written by Deputy Reagan.

I met with Undersheriff Mel Brooks and briefed him regarding my initial review of the complaint and official documentation relating to the incident detailed in the complaint. Undersheriff Brooks directed that the Professional Standards Unit conduct an Administrative Investigation into the complaint.

I checked the COBAN, in-car video surveillance system for any videos associated with the 123 First Street call for service in which Anthony Aardvark was arrested. I located two videos made by Deputy George Washington and a single video made by Deputy Theodore Roosevelt.

None of the videos contained video footage of evidentiary value to this administrative investigation. In all instances, the camera angles were such that no relevant action was documented within the video component of the recordings. Furthermore, I found that there was no audio component to Deputy Roosevelt's COBAN recording.

In reviewing Deputy Washington's COBAN recording, there was some audio component of apparent relevance to this investigation. Specifically, during a portion of this recording Deputy Washington was heard speaking with Janice Joplin. During this brief verbal exchange, Joplin made a comment that seemed to indicate that Aardvark was outside the residence when contacted by Deputy Reagan and that Aardvark had attempted to go back inside the residence. This comment was consistent with Deputy Reagan's report *and was inconsistent with the statements Aardvark and Joplin would subsequently make when interviewed by the Professional Standards Unit.*

Due to the distances involved and or the obstructions present, the audio component of Deputy Washington's second recording at Marian Hospital, was of no evidentiary value to this investigation.

I obtained and listened to the dispatch recordings for the 911 call for service, as well as the radio traffic related to this matter that was broadcasted on the primary and secondary Sheriff's radio frequencies. These dispatch recordings were consistent with the

information contained within the CAD report and that which was documented within Deputy Reagan's arrest report.

On, February 19, 2000, I interviewed Anthony Aardvark at the Santa Maria Sheriff's CID Office. During this interview, Aardvark claimed that he never came outside the residence prior to his being contacted by Deputy Reagan. According to Aardvark, he was inside the residence and Reagan was demanding that he come outside. When Aardvark would not exit the residence, Deputy Reagan went into the residence and pulled him out of the residence. Aardvark claimed that when taking him out of the house, Deputy Reagan had Aardvark in a chokehold, causing injury to Aardvark's neck.

In short, Aardvark claimed that Deputy Reagan unlawfully entered his residence and pulled him out of the residence and that Deputy Reagan used excessive force when controlling Aardvark.

Aardvark further complained that when at the hospital, the deputies made him strip completely naked in order to take photographs of his person. Aardvark felt that the sole purpose of this photography procedure was to embarrass him.

During the interview, Aardvark claimed that the day after the arrest, he returned to Marian Hospital and was checked out a second time by a doctor at the hospital. I requested that Aardvark provide me with any medical documentation he had relating to his claimed injury.

Subsequent to interviewing Anthony Aardvark, I made two additional attempts to contact Aardvark via telephone and coordinate his providing the claimed medical documentation. I also asked for permission to go on to his property and take photographs of the general location where the contact between Aardvark and Deputy Reagan occurred. As of May 16, 2000, Aardvark did not return either of my telephone calls, having apparently become uncooperative. It should be noted that prior to the interview, Aardvark repeatedly returned my telephone calls within one day of my having left a message.

On February 19, 2000, I interviewed Janice Joplin at the Santa Maria CID Office. During this interview, Joplin attempted to corroborate the story provided by Aardvark (that he was not outside the residence when initially contacted by Deputy Reagan). However, at a midpoint in the interview, she made a fleeting reference to Aardvark attempting to go back into the house. This reference appeared to be mistakenly made and Joplin provided no further associated information after making the statement. I did not immediately confront Joplin about this inconsistency, choosing to use the information later during the interview process.

In restating her account, I attempted to confirm that Aardvark had been outside and attempted to go back inside the residence when contacted by Deputy Reagan. Joplin attempted to maintain her overall claim that Aardvark had not come outside. When I confronted Joplin about her having said that he was trying to go back inside, Joplin then

changed her story and said that Aardvark had one foot inside and one foot outside the residence at the time.

I also noted that Joplin's current assuredness that Aardvark never completely came outside the residence seemed inconsistent with the short statement I heard her make to Deputy Washington within the COBAN footage. It was apparent that Aardvark and Joplin had engaged in some form of a discussion and attempted to get their stories together subsequent to the event and prior to their being interviewed as part of this administrative investigation.

I contacted SBSO Forensics and obtained all photographs associated with the arrest of Anthony Aardvark on February 9, 2000. The photographs depicted injuries and the lack thereof on the persons of both Anthony Aardvark and Deputy Reagan.

In the pictures of Aardvark, I observed a couple scratches on the right side of his neck. I also noted some general redness present around the circumference of his neck and upper chest. Although this redness on the front and sides of the neck could have been caused by the upper body control hold used by Deputy Reagan, the presence of the red discoloration was present around the entirety of Aardvark's neck, which was more consistent with sunburn. This sunburn possibility was corroborated by similar apparent sunburn about Aardvark's face and below the sleeve-line on his arms.

Several of the pictures depicted Aardvark's bared midsection, with his pants pulled down, exposing his genitalia. Consistent with the information that would later be provided by Deputy Washington, Aardvark was wearing full length pants and no underwear beneath the pants. As such, it would have been impractical to take photographs documenting the lack of visible injury to Aardvark's hips, buttocks and upper thighs, without needing Aardvark to expose his genitalia.

On February 22, 2000, I contacted the reporting party for the incident on First Street, Betsy Ross. The information provided by Ross clearly established the reasonableness of Deputy Reagan's response to the location, as well as his need to control Anthony Aardvark's movements once he was on scene. However, Ross and her husband did not witness any of the physical or verbal interaction between Deputy Reagan and Aardvark. Ross believed her mother who also lived on her property, may have heard a short portion of the interaction between Aardvark and the Deputies. Ross then put me into contact with her mother, Virginia Union.

In speaking with Virginia Union, she did not see the physical interaction between the Deputies and Aardvark. However, while walking between the main residence and her separate residence on the property, she heard someone yell "Get down, I said get down!" Union had no further relevant information to share.

On February 27, 2000, I met with and interviewed Deputy George Washington, Deputy Theodore Roosevelt, Deputy John Adams and Sergeant Abraham Lincoln. The

information provided by Deputies Roosevelt and Adams was of little evidentiary value to this Administrative Investigation, as their time of arrival and/or positioning at the First Street location was such that they made no relevant observations, nor did they personally overhear any relevant conversation.

Deputy Washington made a number of personal observations while at the First Street location which were relevant to this Administrative Investigation. While he was present, Deputy Washington did not observe any indication that Deputy Reagan had rendered Anthony Aardvark unconscious during the incident. Deputy Washington's observations of Deputy Reagan's physical interaction with Aardvark were consistent with the information contained within Deputy Reagan's arrest report.

Additionally, Deputy Washington recalled having a short conversation with Janice Joplin, who was present at the location and had witnessed the interaction between Deputy Reagan and Anthony Aardvark. During this conversation, Joplin made a statement indicating that Aardvark was uncooperative with Deputy Reagan and had attempted to go back into the residence. Joplin's statements to Deputy Washington were consistent with the information present within Deputy Reagan's arrest report and were inconsistent with the information she attempted to relay during her interview with the Professional Standards Unit. A portion of the conversation between Deputy Washington and Joplin was captured on the COBAN audio/video footage from Deputy Washington's patrol vehicle.

In interviewing Sergeant Lincoln, it was learned that Sergeant Lincoln was unable to arrive at First Street location prior to the deputies clearing the location after having arrested Aardvark. Upon learning that Aardvark was transported to Marian Hospital for a pre-booking clearance, Sergeant Lincoln decided to go to that location and check on the circumstances. Furthermore, concurrent with this decision, Sergeant Lincoln received a call from Deputy Washington in which Deputy Washington indicated that Aardvark was claiming he was injured as a result of the physical arrest and use of force by Deputy Reagan.

Upon arrival at the hospital, Sergeant Lincoln spoke with the deputies about what occurred on First Street. Sergeant Lincoln was unable to interview Aardvark due to his being uncooperative and making a reference to wanting to speak with a lawyer.

Sergeant Lincoln was aware that Deputy Washington took photographs of Aardvark's person to show any injuries or the lack thereof. Sergeant Lincoln stated that the photographing of Aardvark under these circumstances was consistent with the Department Use of Force policy. Sergeant Lincoln learned that due to the clothing worn by Aardvark, several of these photographs had to be taken with Aardvark completely naked.

Because Sergeant Lincoln felt it was likely that Aardvark would attempt to file a complaint regarding this matter, Sergeant Lincoln attempted to conduct a recorded interview with Janice Joplin via telephone. During this recorded interview, Joplin made statements indicating that Aardvark was outside the residence when contacted by Deputy Reagan, had become uncooperative and attempted to go back into the residence. The information provided by Joplin during this interview was consistent with the information documented

with Deputy Reagan's report and was inconsistent with the claims made by Aardvark while at the hospital, as well as her own statements she later provided when interviewed by the Professional Standards Unit. Sergeant Lincoln retained the recording for future use. Sergeant Lincoln allowed the Professional Standards Unit to make a digital audio copy of the recorded interview with Joplin.

On March 3, 2000, I interviewed Deputy Reagan at the Santa Maria Sheriff's Station. The statement provided by Deputy Reagan was consistent with his written report and detailed a set of circumstances in which his actions appeared lawful and within department policy. For officer safety purposes, Deputy Reagan was attempting to control Anthony Aardvark's movement and prevent Aardvark from going into the residence, where he could potentially obtain a weapon. Of note, this is absolutely consistent with the appropriate handling of a domestic violence call for service, which is what Deputy Reagan was handling at the time. When Aardvark became uncooperative and attempted to go into the residence after having been specifically told not to do so, Deputy Reagan had to physically restrain Aardvark and prevent him from entering the residence. When physically restrained, Aardvark became physically uncooperative and actively resisted Deputy Reagan's efforts to control him.

Deputy Reagan placed Aardvark into what Deputy Reagan described as being an "upper body control hold." Deputy Reagan stated this was a control hold that he and other Sheriff's Deputies were recently trained in by the Sheriff's Training Bureau. The upper body control hold involves the Deputy kneeling behind a seated individual and placing their arm around the subject's shoulders and neck, in a "V" configuration. Deputy Reagan maintained that he did not turn the upper body control hold into a carotid restraint, nor did he render Aardvark unconscious. Reagan described the upper body control hold as being the preparatory positioning should the deputy need to initiate a carotid restraint.

Deputy Reagan claimed that he was initially unaware that Aardvark was injured as a result of the use of force and Aardvark made no statements claiming such until they arrived at the hospital. When asked, Deputy Reagan stated he did not actually need to make a specific effort to notify his supervisor of the claimed injury, as Sergeant Lincoln was present when Aardvark made these claims.

Deputy Reagan stated that he completed and submitted all documentation required by department policy under the circumstances present in this case. When contacted by the Professional Standards Unit, Sergeant Abraham Lincoln and Lieutenant Elmer Fudd confirmed the required documentation was submitted by Deputy Reagan.

I contacted the SBSO Aviation Bureau and asked if they could take pictures of the 123 First Street address, while conducting routine operations, or before/ after other planned operations. As it turned out, the Aviation Bureau was tasked with flying a different photography mission in the Lompoc area and was able to take the pictures I requested before/after completing their primary mission. The photographs provided by the Aviation Unit clearly showed that the area of the 123 First Street address where the initial contact between Deputy Reagan and Anthony Aardvark occurred, was a publicly accessible area of the property and was not an enclosed porch, or other area that would afford full fourth amendment protections.

SANTA BARBARA COUNTY SHERIFF'S DEPARTMENT
PROFESSIONAL STANDARDS UNIT
INVESTIGATIVE CONCLUSION
CASE # 2000-200

Date Received: Feb 4, 2000	Date Complete: Mar. 16, 2000	Date to Staff: Mar. 16, 2000
----------------------------	------------------------------	------------------------------

COMPLAINANT'S NAME: Anthony Aardvark

COMPLAINANT'S ADDRESS: 123 First Street, Lompoc, CA

DATE OF INCIDENT: January 32, 2000	TIME: 2030 hours
------------------------------------	------------------

LOCATION: 123 First Street, Lompoc, CA

SUBJECT(S): Deputy Ronald Reagan

ASSIGNMENT: NCOD Patrol	RANK: Deputy Sheriff
-------------------------	----------------------

ALLEGATIONS (list each separately)	DISPOSITION
Lexipol §300.2 - Excessive Use of Force	LEAVE
Lexipol §340.3.2(k) - Discourtesy, Disrespectful Treatment of the Public	THESE
Lexipol §340.3.5(v) - Exceeding Lawful Peace Officer Powers	FIELDS
	BLANK

DISPOSITIONS

SUSTAINED. The investigation disclosed a preponderance of evidence to prove the allegation(s) made in the complaint.	
NOT SUSTAINED. The investigation failed to disclose a preponderance of evidence to prove or disprove the allegations(s) made in the complaint.	
UNFOUNDED. The investigation conclusively proved that the act(s) alleged did not occur, or the act(s) may have occurred but the individual employee(s) named in the complaint(s) was not involved.	
EXONERATED. The facts which provided the basis for the complaint or allegation did in fact occur, however, the investigation revealed that the actions were justified, lawful and proper.	

INVESTIGATOR: _____	DATE: _____
DIVISION COMMANDER: _____	DATE: _____

(Signature)

Interview of Anthony Aardvark

Report prepared by Sergeant William Shakespeare

Date/ Time: Tuesday, February 19, 2000, at 1728 hours
Location: Lompoc Sheriff's Station – Lieutenant's Office
Persons involved: Anthony Aardvark
Sergeant William Shakespeare

Background information: Anthony Aardvark is the complainant in this matter. Aardvark submitted a citizen complaint form in which he made allegations against Deputy Reagan, claiming that Deputy Reagan overreacted and used excessive force when arresting Aardvark on January 32, 2000.

Upon being assigned to conduct this Administrative Investigation regarding Anthony Aardvark's Citizen Complaint, I contacted Mr. Aardvark via telephone and requested that he allow me to interview him to obtain additional information regarding his complaint. Aardvark and I made an appointment to meet at the Santa Maria Sheriff's Station on February 19, 2000, in order to conduct this interview.

Prior to beginning the interview, I confirmed that Aardvark did not have an attorney retained in this matter, nor had he been arraigned on the arrest. As such, there were no Sixth Amendment issues present relating to my interviewing him about this matter. Because Aardvark was not under arrest and had voluntarily met with me and agreed to be interviewed, there were also no Fifth Amendment issues present.

I began the interview by asking Aardvark to explain to me, on a step by step basis, what occurred on the evening in question. Aardvark began by explaining that he and Janice Joplin had been out drinking alcohol at a couple of different locations in the Lompoc area. They returned home to Aardvark's 123 First Street residence. Aardvark believed the incident with Deputy Reagan occurred at approximately 2030 hours, as he recalled that he did not need to turn on the lights in the residence at that point in the evening. Aardvark recalled that he and Joplin were arguing in a manner that Aardvark described as being a "lovers quarrel." At some point, Joplin stepped out of the residence to smoke a cigarette. The argument continued in a "back and forth" manner with Joplin outside and Aardvark inside the residence. Aardvark surmised that this is what led someone to calling the Sheriff's Department about the situation. When asked if the voices could have carried, Aardvark said that this was possible and that he was not contesting the argument had occurred and caused someone to call the Sheriff's Department.

Aardvark described that he then began walking from the back bedroom toward the kitchen area of his residence. At the time, the back door of the residence was open and Joplin was still seated outside on the porch area of the property, smoking a cigarette. At this point, Aardvark heard a voice coming from outside the residence and believed the person made a statement to the effect of "just sit there." At that point, Aardvark saw a, "Blur come in the back door". According to Aardvark, once inside the residence, Deputy Reagan began, "Kind of pushing me around in the kitchen." Deputy Reagan told Aardvark, "We're going to go outside." Aardvark believed Deputy Reagan was behind him at this point. Aardvark stated that he and Deputy Reagan began to walk out toward the backdoor whereupon

Aardvark stopped and told Deputy Reagan that did not want to go out of his residence. Aardvark stated he told Deputy Reagan, "I'm in my house, I'm not going to go outside." Aardvark stated that he then turned around to go back inside his kitchen. Aardvark made a point to state that he was inside his house at this point in the contact.

Aardvark said, "The next thing I know I felt this hulk body and something around my throat." Aardvark described it as having what would technically be called a bar arm chokehold placed on him (with the forearm across the throat). Aardvark went on to state that when he was being choked, his eyes were closed and did not see exactly what was occurring. Aardvark said it was also possible that it was a "Double scissor thing," around his throat. Aardvark stated that he then fell to the ground due to the size difference between himself and Deputy Reagan. Aardvark stated that his hands instinctively went up to take the pressure off his throat. Deputy Reagan told Aardvark to "stop resisting." In response, Aardvark told Deputy Reagan, "You are choking me." In response to that, Deputy Reagan told Aardvark, "I will break your neck." At this point, Aardvark believed that Deputy Reagan wanted to hurt him. Aardvark stated the remainder of the incident was, "Pretty much a blur."

Aardvark stated that he was taken out of his house and dragged out to his driveway by his throat. Aardvark believed there was an instance in which he attempted to stand up and Deputy Reagan jumped on him and forced him to the ground. Aardvark recalled that Deputy Reagan had both hands around Aardvark's throat.

During the ride to the hospital, Aardvark recalled that he asked Deputy Reagan why he was choking him and had his hands around his throat. Aardvark claimed that in response, Deputy Reagan claimed that he did so because he did not know whether Aardvark had access to a weapon. Aardvark stated that while at the hospital they took a neck x-ray.

Aardvark further stated that while at the hospital, the Deputies took photographs of his person and made him strip completely naked as part of taking these photographs. At the time, Aardvark assumed the deputies were just looking for marks on his body, but in speaking with a lawyer after the fact, the lawyer opined that the deputies were doing it to humiliate Aardvark.

Aardvark claimed that his neck was injured as a result of the force used by Deputy Reagan when controlling and arresting Aardvark. Aardvark stated that he still has trouble (at the time of the interview) swallowing as a result of the injury. Aardvark also claimed the handcuffs were too tight, causing his wrists to be in pain for an extended period of time. Aardvark claimed that he had asked the deputies to loosen the handcuffs which they refused to do.

According to Aardvark, the day following his arrest, Aardvark returned to the Lompoc Hospital Emergency Room and was seen by another doctor. This doctor told Aardvark that "You have suffered a neck injury." Aardvark stated that although the doctor told him this, the doctor would not state what caused the neck injury. Aardvark did not provide any specifics as to exactly what this neck injury entailed. Aardvark agreed to attempt to obtain the documentation from Lompoc Hospital regarding the second examination and to provide it to me upon doing so. *It should be noted that Aardvark never provided this requested documentation to me even after I contacted him on two additional occasions and left*

messages requesting that he do so. I had Aardvark draw a rough sketch of his property and the location at which he was contacted by Deputy Reagan.

Aardvark steadfastly maintained that he was inside the residence at the time that Deputy Reagan first contacted him and denied that he had been outside and returned inside the residence as was documented in Deputy Reagan's report.

A copy of the written citizen complaint form, any other documentation submitted by the complainant and any other relevant documentation would be attached to this interview report. The idea is to prevent the reader from having to search around the file for information. Attachments to this report included:

- **Citizen complaint form submitted by Aardvark**
- **Jail booking information related to Aardvark being booked on January 32, 2000.**

Interview of Janice Joplin

Report prepared by Sergeant William Shakespeare

Date/ Time: Tuesday, February 19, 2000, at 1751 hours
Location: Lompoc Sheriff's Station – Lieutenant's Office
Persons involved: Janice Joplin
Sergeant William Shakespeare

Background information: In reviewing the reports documenting the arrest of Anthony Aardvark, it appeared that Aardvark's girlfriend, Janice Joplin, witnessed the interactions between Aardvark and Deputy Reagan. Joplin was interviewed to ascertain what she observed to occur on the night in question.

Joplin explained that on the night in question, she and Aardvark were drunk and arguing with each other, yelling loudly. Joplin was sitting outside smoking a cigarette when Deputy Reagan showed up and asked what was going on. Joplin told Deputy Reagan, "Oh nothing... we were arguing." Joplin then skipped around in her story and said that Deputy Reagan told Aardvark to come outside. When Aardvark went to step his foot outside, Deputy Reagan told him to put his hands behind his back. At that point, Aardvark told Deputy Reagan, "No and went back in."

Joplin then said that Deputy Reagan almost knocked her over when going after Aardvark. Joplin then said Aardvark went back toward, or into the kitchen area of his residence. Joplin said Aardvark and Deputy Reagan were in the kitchen area of the residence for a while, where she could not see what they were doing and did not remember hearing anything. Joplin believed they remained in the kitchen area for a couple minutes.

Joplin said that Deputy Reagan dragged Aardvark outside and was holding Aardvark around his neck, using both arms. Joplin heard Aardvark state that he could not breath and Deputy Reagan responded by saying that if Aardvark was talking, he was also able to breath. Joplin claimed she also heard Deputy Reagan tell Aardvark, "I'll break your neck." Joplin could not tell me when Deputy Reagan made this statement. Joplin recalled Aardvark and Deputy Reagan were in a seated position near Aardvark's vehicle that was parked in the driveway. Joplin thought Deputy Reagan may have had his legs wrapped around Aardvark in addition to his arms. Aardvark repeatedly stated that Deputy Reagan was hurting him. Joplin said she did not see Aardvark doing anything toward Deputy Reagan during this time frame. Joplin observed that Aardvark became really relaxed and went limp.

Joplin said she was crying and there was nothing she could do. Additional deputies arrived to assist. As the other deputies walked up to the location Joplin recalled that Deputy Reagan had Aardvark stand up. While doing this, Aardvark slipped, whereupon Deputy Reagan tackled Aardvark to the ground. Joplin thought Deputy Reagan was overreacting at that point, or was showing off for the other deputies. The deputies handcuffed Aardvark and put him in the police car. Joplin said she called someone to come pick her up.

As I went back over her story with her, Joplin tried to change her story to make it clear that Aardvark never came outside the residence. Even within seconds she further contradicted

herself by stating, "He just stepped out." I confronted Joplin with this being inconsistent. Joplin then claimed that Aardvark had one foot inside and one foot outside the door.

Joplin said a deputy called her at 2330 hours, woke her up and spoke with her about the incident. Joplin denied that she spoke with the deputies when they were at the First Street residence.

Review of Audio/Video Evidence

Report prepared by Sergeant William Shakespeare

Date/ Time: February 14, 2000, through March 5, 2000
Location: Sheriff's Headquarters – Professional Standards Unit
Persons involved: Sergeant William Shakespeare

As a part of this Administrative investigation, I attempted to locate and review any audio and video evidence relating to the arrest of Anthony Aardvark on January 32, 2000.

In reviewing the original and supplemental reports authored under case number 00-99916, I did not locate any indication that any of the involved deputies recorded any portion of their contact with Anthony Aardvark and Janice Joplin, on January 32, 2000, using personal digital recorders. This was later confirmed when I interviewed each of the deputies that was present for this event.

I also found no indication that Deputy Reagan caused a COBAN (in-car video recorder system) recording of this incident. I noted that both Deputy Washington and Deputy Roosevelt caused COBAN recordings with their patrol units. Neither of these COBAN recordings contained relevant video footage relating to this investigation. The lack of video footage was due to the camera angles involved. I further noted that Deputy Roosevelt's COBAN recording did not contain any audio recordings from a remote microphone on Deputy Roosevelt's person. The only audio captured in this recording was within the patrol unit itself and was of no relevance to this investigation. The COBAN recording from Deputy Washington's patrol vehicle did contain portions of audio recording from the remote microphone on Deputy Washington's person and which may be relevant to the matter in question.

What follows is a review of the potentially relevant portions of the COBAN recording from Deputy Washington's patrol vehicle. It appeared that Deputy Washington arrived at the 123 First Street location at approximately 2023 hours. Deputy Washington stopped his patrol vehicle one property short (east) of Anthony Aardvark's residence. Deputies Washington and Roosevelt then appeared to be attempting to locate the location where Deputy Reagan was at the time. Of note, it was later determined that they made contact at the reporting party's residence and were then directed to Anthony Aardvark's residence, where Deputy Reagan was located. Upon learning the location of Deputy Reagan, Deputy Washington ran toward Anthony Aardvark's residence, at approximately 2024 hours.

Within approximately 30 seconds, Deputy Washington apparently arrived at Deputy Reagan's location and Deputy Reagan was heard telling someone to put their arm behind their back. Aardvark could be heard yelling in the background. Due to unknown reasons, the remote microphone on Deputy Washington's person turned off at 2025 hours, and 24 seconds. *It was later surmised that this may have been the result of Deputy Washington's ballistic vest pushing against the microphone activation button when Deputy Washington bent down to take hold of one of Aardvark's arms.* Even with the remote microphone turned off and only the in-car microphone active, I could hear Anthony Aardvark yelling in the background, demanding to know what he did wrong.

Deputy Washington apparently reactivated the remote microphone approximately 30 seconds after it shut off, at approximately 2026 hours. At this point, it sounded as if Deputy Washington was speaking with Janice Joplin. Deputy Washington seemed to be attempting to identify Aardvark and Joplin. At one point Deputy Washington and Joplin were discussing the reason for the deputies being called to the scene. During this conversation, Joplin told Deputy Washington that she and Aardvark were “yelling and screaming.” Deputy Washington asked Ms. Joplin what occurred. In response, Joplin spoke of she and Aardvark going out to a couple bars in the Santa Maria area then coming home and engaging in an argument about Aardvark’s son. Joplin stated that she had gone outside the residence and that she and Aardvark continued to yell at one another. At one point, Joplin said that Aardvark, “Went back inside and slammed the door.” Deputy Washington noted that there was a chair partially within the doorway and asked Joplin about the reason for the chair being at this location. Joplin told Deputy Washington that she had no idea why the chair was present. Deputy Washington asked Ms. Joplin if somebody had thrown a chair during the incident (altercation between Aardvark and Deputy Reagan). In response, Joplin stated, “No, he went to go in the house...Anthony did.” Deputy Washington asked if there was a physical altercation between Aardvark and Joplin, which Joplin denied. Deputy Washington finished his brief conversation with Joplin at approximately 2028 hours.

At approximately 2029 hours, Deputy Washington began running computer checks on Joplin and Aardvark via SBSO Dispatch. Concurrently, Deputy Reagan could be heard speaking with Joplin in the background. Reagan appeared to be obtaining basic identifying information for Ms. Joplin. At approximately 2029 hours and 56 seconds, Deputy Reagan made a statement to Ms. Joplin that, “Sorry I had to do that, I was actually trying not to harm the man...but he would not comply.” Ms. Joplin’s response to this statement was, “I know.” Deputy Washington turned off the remote microphone for his COBAN at 2030 hours. There were no further audio recordings on that particular COBAN video.

Deputy Washington activated his COBAN recorder and remote microphone while at the Marian Hospital Emergency Room, causing a second recording. Unfortunately, due to the distances involved and/or obstructions present, the audio recording for this COBAN video was extremely poor. I was unable to discern any relevant statements made by Anthony Aardvark or the deputies during this recording.

The COBAN recordings are included within this administrative investigation file, on the DVD Media Disc contained in the miscellaneous section of this file, under the 03 Audio and Visual Evidence folder on the disk.

I obtained the SBSO dispatch recordings associated with the arrest of Anthony Aardvark on January 32, 2000. The recordings included the 911 call from the reporting party and the radio traffic on the primary and secondary Sheriff’s radio channels. I reviewed the dispatch recordings and found them to be consistent with the documentation submitted by Sheriff’s personnel on January 32, 2000, as well as with the statements provided by Sheriff’s personnel during this administrative investigation.

The dispatch recordings are included within this administrative investigation file, on the DVD Media Disc contained in the miscellaneous section of this file, under the 03 Audio and Visual Evidence folder on the disk.

As a result of the interview with Sergeant Lincoln, I learned that Sergeant Lincoln obtained a recorded statement from Janice Joplin on January 32, 2000, after Aardvark was booked in the Santa Barbara County Jail, but prior to his having the ability to contact Joplin. Sergeant Lincoln was able to produce this audio recording and allow me to review it for the purposes of this Administrative Investigation. I also made a digital audio copy of the recording which was originally made with a cassette tape recorder. A copy of the digital recording is included within this administrative investigation file, on the DVD Media Disc contained in the miscellaneous section of this file, under the 03 Audio and Visual Evidence folder on the disk.

In reviewing the audio recording of the interview between Sergeant Lincoln and Janice Joplin, I noted the following relevant verbal exchanges. Joplin made statements indicating that upon Deputy Reagan's arrival at the scene, Anthony Aardvark was outside the residence and not inside the residence as he claimed in his complaint. Joplin also made statements that Aardvark attempted to go back into the residence, after having been told not to by Deputy Reagan. She further stated that Deputy Reagan had to physically restrain Aardvark to prevent him from going into the residence. There were a couple of different occasions within the recorded interview in which Joplin made reference to Aardvark attempting to go back into the house. When asked if Aardvark had lost consciousness, Joplin indicated that she did not observe this to have occurred and that she heard him screaming and yelling the entire time, claiming that Deputy Reagan was hurting him. Joplin also stated that Aardvark was yelling for her to assist him in getting free of Deputy Reagan. Joplin stated she did not attempt to assist Aardvark, as Deputy Reagan had told her to sit down.

It should be noted that the poor audio quality present in the digital recording was the result of the original audio quality present in the cassette tape recording and not of the transfer protocol used to make the digital recording. The original recording on the cassette tape is of no better quality than the digital audio recording.

Interview of Deputy Ronald Reagan

Report prepared by Sergeant William Shakespeare

Date/ Time: Wednesday, February 13, 2000, at 1451 hours
Location: Lompoc Sheriff's Station – Lieutenant's Office
Persons involved: Deputy Ronald Reagan
Sergeant William Shakespeare

Background information: Deputy Ronald Reagan was the subject of this administrative investigation. In compliance with Government Code Sections 3300-3312, prior to this interview, Deputy Reagan was provided with an emailed notice of this administrative investigation, the allegations made by Anthony Aardvark and of his right to representation if desired.

Prior to our beginning the interview, Deputy Reagan reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was recorded with the knowledge of all persons involved.

Of note, this document is not a chronology of the interview with Deputy Reagan. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was recorded using a digital voice recorder. For a verbatim, or chronological account of the interview, refer to the digital audio recording, which is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

The information Deputy Reagan provided during this interview was consistent with his written report and detailed a set of circumstances in which his actions appeared lawful and within department policy. A copy of Deputy Reagan's arrest report is attached to this interview report.

Deputy Reagan responded to the First Street location to handle a call for service broadcasted by SBSO Dispatch. The call for service indicated there was an in-progress father/son disturbance at the location. There was some initial confusion as to the location, resulting in Reagan making initial contact at the reporting party's residence. The reporting party directed Reagan to Aardvark's 123 First Street residence.

As Deputy Reagan approached Aardvark's residence, Reagan heard yelling coming from the outside/rear of the residence. As Deputy Reagan began to walk up the driveway of the residence, Reagan observed Aardvark standing outside the residence, near the edge of the patio, where it meets the driveway. As Deputy Reagan approached Aardvark, he also observed Joplin seated on the patio. When Deputy Reagan asked what was going on, Aardvark claimed he and Joplin were arguing. Deputy Reagan told Aardvark and Joplin he wanted them to remain where they were until additional officers arrived. Aardvark was initially cooperative, but shortly thereafter decided he wanted to go into the residence.

For officer safety purposes, Deputy Reagan attempted to control Anthony Aardvark's movement and prevent Aardvark from going into the residence, where he could potentially obtain a weapon. Of note, this is absolutely consistent with the appropriate handling of a domestic violence call for service, which is what Deputy Reagan was handling at the time. On the first occasion that Aardvark became uncooperative and attempted to go into the residence after having been specifically told not to do so, Deputy Reagan went after Aardvark, caught up with Aardvark who had entered the laundry room, took hold of Aardvark's clothing and escorted Aardvark back outside and directed Aardvark to sit down. Once again Aardvark was initially cooperative and did as he was told. Reagan explained to Aardvark why he needed Aardvark to stay outside until the other deputies arrived.

Moments later, Aardvark stood up and again tried to go inside the house. When Deputy Reagan attempted to take hold of Aardvark and return him to the seated position on the patio, Aardvark began to actively resist, flailing with his arms, in conjunction with yelling statements indicating he was not going to comply.

Because of the active resistance, Deputy Reagan placed Aardvark into what Reagan described as being an "upper body control hold." Deputy Reagan stated this was a control hold that he and other Sheriff's Deputies were recently trained in by the Sheriff's Training Bureau. The upper body control hold involves the Deputy kneeling behind a seated individual and placing their arm around the subject's shoulders and neck, in a "V" configuration. Deputy Reagan maintained that he did not turn the upper body control hold into a carotid restraint, nor did he render Aardvark unconscious. Deputy Reagan described the upper body control hold as being the preparatory positioning should the deputy need to initiate a carotid restraint.

When physically restrained, Aardvark became increasingly uncooperative and actively resisted Deputy Reagan's efforts to control him. Fearing that Aardvark would escalate to being assaultive if Deputy Reagan attempted to transition from the control hold to a handcuffing technique (this would require that Deputy Reagan release a level of control that he had at that point), Deputy Reagan felt it was necessary to maintain the upper body control hold until additional deputies arrived. When Deputy Washington arrived, Deputy Reagan rolled Aardvark to his stomach and handcuffed him, with the assistance of Deputy Washington.

Deputy Reagan claimed that he was initially unaware that Aardvark was injured as a result of the use of force and Aardvark made no statements claiming such until they arrived at the hospital. When asked, Reagan stated he did not actually need to make a specific effort to notify his supervisor of the claimed injury, as Sergeant Lincoln was present when Aardvark made these claims.

Reagan stated that he completed and submitted all documentation required by department policy under the circumstances present in this case. *Of note, when contacted by the Professional Standards Unit, the submission of the required documentation was confirmed by Sergeant Abraham Lincoln and Lieutenant Elmer Fudd.*

A copy of Deputy Reagan's arrest report should be attached to this interview report. The concept is to place all information/statements provided by the individual into a single location within the file.

Interview of Deputy George Washington

Report prepared by Sergeant William Shakespeare

Date/ Time: Wednesday, February 27, 2000, at 0939 hours
Location: Sheriff's Headquarters – Professional Standards Unit
Persons involved: Deputy George Washington
Sergeant William Shakespeare

Background information: During this administrative investigation, I learned that Deputy Washington was present at the First Street location where Anthony Aardvark was arrested. Deputy Washington was interviewed to determine if he made any observations relevant to this investigation.

Prior to our beginning the interview, Deputy Washington reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was recorded with the knowledge of all persons involved.

Of note, this document is not a chronology of the interview with Deputy Washington. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was recorded using a digital voice recorder. For a verbatim, or chronological account of the interview, refer to the digital audio recording, which is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

Prior to beginning the interview, I informed Deputy Washington of the general circumstances and reason it was necessary to interview him as a witness in this investigation. I also reviewed the COBAN video footage from Deputy Washington's patrol vehicle with Deputy Washington. This review was done prior to the interview in order to refresh Deputy Washington's recollection and to assist him in identifying information present in the video which was relevant to this investigation.

Deputy Washington stated that on the date in question, Deputy Washington was in route to act as a back-up officer for Deputy Adams on an unrelated call traffic stop. Deputy Washington heard dispatch make a broadcast requesting Deputy Reagan's status. In replying to this radio request, Deputy Reagan indicated that he was out with a combative individual. Deputy Washington began a Code 3 response to the First Street location. Deputy Washington indicated that he did not hear the original call for service, but while responding to the location, reviewed the CAD information. Using the CAD data, Deputy Washington determined Deputy Reagan's location and the general nature of the call for service.

Upon arrival, Deputy Washington found that the address in the CAD call for service was not the actual location where Deputy Reagan was located. The address that was provided in the call for service was actually the reporting party's address. As they were attempting to figure out where Deputy Reagan was located, a person at the reporting party's property pointed toward the 123 First Street location where Deputy Reagan was. Deputy Washington immediately ran toward Deputy Reagan's location. At 123 First Street,

Deputy Washington found a driveway leading from the street toward the rear of the residence. Upon looking down the driveway, Deputy Washington observed Deputy Reagan struggling with a male, immediately adjacent to a vehicle parked in the driveway. Deputy Reagan was on his knees behind the male, who was in a seated position with his legs out in front of him. As Deputy Washington approached, Deputy Reagan rolled Mr. Aardvark onto his stomach and began attempting to handcuff Aardvark. Deputy Washington bent/reached down and took hold of one of Aardvark's arms and assisted in handcuffing Aardvark.

I asked Deputy Washington to describe the hold that Deputy Reagan had on Mr. Aardvark when Deputy Washington first observed them. Deputy Washington explained that from the point of view he had at the time, it appeared that Deputy Reagan had Aardvark in an upper body control hold. From his advantage point, Deputy Washington could not see how Deputy Reagan's arms and hands were placed on Mr. Aardvark's body. Deputy Washington described the overall body positioning between Deputy Reagan and Anthony Aardvark as being consistent with the position deputies are trained to utilize when preparing to place somebody in a carotid restraint. Deputy Washington was able to observe that Deputy Reagan's arm was around Mr. Aardvark's shoulder and neck area however, Deputy Washington could not see if Deputy Reagan had Mr. Aardvark in the carotid restraint position (inner elbow at centerline of neck with neck restrained between bicep and forearm area in a "V" position). Deputy Washington did not observe any portion of the contact where it appeared that Mr. Aardvark lost consciousness. To the contrary, Mr. Aardvark was talking the entire time and at the point that Deputy Washington took hold of Mr. Aardvark's hand, Deputy Washington was absolutely certain that Aardvark was talking.

I pointed out that in reviewing the COBAN footage with Deputy Washington, I noted that Washington's remote microphone had turned off shortly after he arrived at the location where Deputy Reagan was interacting with Mr. Aardvark. Deputy Washington's stated that he did not intentionally turn off his microphone. Deputy Washington surmised that his vest and/or "gut" may have pushed upon the microphone's activation button, causing the microphone to turn off. Deputy Washington confirmed that he carries his remote microphone on the front of his gun belt and it is in a position where his ballistic vest can impact the activation button when he bends over. Deputy Washington stated that this likely would have occurred when he reached down to take control of Mr. Aardvark's hand for handcuffing.

Deputy Washington recalled that after Mr. Aardvark was secured in the patrol unit, he engaged the woman who was present (Janice Joplin) in conversation about what had occurred. Ms. Joplin told Deputy Washington that she and Aardvark had been out consuming alcohol at a couple establishments in the Santa Maria area and had returned home. Upon returning home, they engaged in a verbal argument. Deputy Washington specifically recalled observing that there was a chair laying down, immediately adjacent to the doorway leading into the rear of the residence. Deputy Washington recalled asking Ms. Joplin if the chair was used as a weapon, or had been part of the domestic incident. Ms. Joplin replied that she did not know what caused the chair to be at that location. Deputy Washington recalled that Ms. Joplin indicated that the whole confrontation had occurred outside the residence and that at one point, Mr. Aardvark attempted to go back into the residence. Joplin stated that Deputy Reagan attempted to stop Aardvark from going into the house. I pointed out that within the COBAN in-car camera footage, I heard a point in

the conversation in which Joplin could be heard stating that Aardvark attempted to go back inside the residence. I pointed out that due to the lack of audio quality and volume I could not hear many of the words that lead up to this statement made by Joplin. I asked Deputy Washington if in reviewing that portion of the footage with me it was his understanding that Joplin was referring to Aardvark attempting to go back inside the house at the point at which Deputy Reagan was present and attempting to prevent him from doing so. Deputy Washington stated this was his understanding of what Ms. Joplin was relating at that point.

Deputy Washington believed that Deputy Reagan may have returned and spoke with Ms. Joplin to obtain additional information. Deputy Washington believed that Deputy Adams and Deputy Roosevelt were also present for portions of this call for service and may have witnessed portions of the events in question.

In reviewing the COBAN footage with Deputy Washington I asked about a male subject who was observed walking around the property immediately east of Aardvark's residence. I noted the subject was wearing what appeared to be dress clothing, consisting of a dress shirt, vest and dress slacks. Deputy Washington did not know who this individual was. *I later learned that this individual was likely the reporting party's husband.*

At this point Deputy Washington returned to the patrol cars and Deputy Reagan transported Mr. Aardvark to the Lompoc Jail. Deputy Washington also responded to the Lompoc Jail to provide assistance if needed. While at the jail, Jail staff decided that Mr. Aardvark needed to be cleared at the hospital prior to being booked into the Jail facility. Deputy Washington was not present for the initial portions of the booking process at the jail. Because of this, Deputy Washington was not certain as to the reason jail staff required that medical clearance be obtained prior to accepting Aardvark.

Subsequent to Deputy Reagan beginning the transport of Mr. Aardvark to the hospital, Deputy Washington made contact at the jail and learned that part of the need for the medical clearance was that Mr. Aardvark had some form of medical condition. He was also told that during the booking process, Mr. Aardvark claimed he had lost consciousness during the struggle with Deputy Reagan. Deputy Washington believed the jail staff present at the time Mr. Aardvark was initially brought in were Custody Deputy Andrew Jackson and Senior Custody Deputy Benjamin Franklin.

At this point, Deputy Washington responded to the hospital to ensure that photographs were taken of Mr. Aardvark's injuries, or lack thereof and that hospital staff understood that Mr. Aardvark was claiming that he had lost consciousness. Upon arrival to the hospital, Deputy Washington made contact with Deputy Reagan and Mr. Aardvark. Deputy Washington confirmed that the appropriate information was related to the medical staff and that Mr. Aardvark was being examined to rule out any injuries that might have occurred as a result of the struggle with Deputy Reagan. Deputy Washington stated that he did not attempt to interview Mr. Aardvark, but had turned on his COBAN system to record this contact. *It should be noted that due to the distance involved and/or walls between the patrol vehicle and Deputy Washington's position, this recording was of extremely poor quality and almost nothing that was said by Mr. Aardvark was discernable.*

I asked Deputy Washington if while he was present at the hospital, Mr. Aardvark was making any statements relating to the circumstances of his arrest. Deputy Washington confirmed that Aardvark was making such statements. Deputy Washington recalled that

Mr. Aardvark was “ranting and raving,” claiming that Deputy Reagan entered and pulled him out of his house. Mr. Aardvark also stated something to the affect that Deputy Reagan had choked him to the point that he blacked out. As the contact continued, Deputy Washington advised Mr. Aardvark of his constitutional rights, whereupon Mr. Aardvark made some sort of reference to wanting an attorney. Because of this potential invocation, Deputy Washington did not make any attempts to interview Mr. Aardvark. By that time Sergeant Lincoln had arrived at the hospital.

Deputy Washington stated that he could not remember any additional specifics about what Mr. Aardvark was, or was not claiming had occurred. I asked Deputy Washington if at any point in time Mr. Aardvark made any statements that were inconsistent with his claim that Deputy Reagan had entered the residence and pulled Mr. Aardvark out of the house. Deputy Washington stated that he could not remember any such specific statements. Deputy Washington stated that without reviewing the COBAN footage his only recollection was that Mr. Aardvark may have made some initial statements about being outside. I explained that the audio within the COBAN footage from the hospital was of extremely poor quality and that I was unable to discern any of the statements made by Mr. Aardvark. I asked that upon completion of the interview that Deputy Washington take the time to listen to the audio from this COBAN footage and ascertain if he was able to refresh his recollection and/or provide information about what Mr. Aardvark had said (this was done because persons who were present at the actual event in question may have the ability to better understand the garbled verbiage, based upon their having been present and/or based upon hearing their own verbiage immediately prior to and after any such statement.) *Ultimately, Deputy Washington was not able to extract any useful information as result of reviewing the COBAN recording.*

Deputy Washington recalled that during the entire time they were at the hospital, Mr. Aardvark repeatedly asked about the reasoning for his arrest. Although he was repeatedly told why he was arrested, Mr. Aardvark could not retain the information and continued asking the same question throughout the contact. Deputy Washington also recalled that Mr. Aardvark became agitated anytime Deputy Reagan was around. Because of this, Deputy Reagan attempted to minimize his direct interaction with Mr. Aardvark while at the hospital.

Consistent with the use of force policy, Deputy Washington took head to toe photographs of Mr. Aardvark. This was done in order to document any injuries that were present on Mr. Aardvark’s person and the lack thereof. I pointed out that one of the concerns raised by Mr. Aardvark was that pictures were taken of him while he was completely nude. Deputy Washington explained that this was not his intention, nor his usual practice in these situations. However, because Mr. Aardvark was not wearing any underwear and was wearing pants, this was the only way that Deputy Washington was able photo document Mr. Aardvark’s lower body. Deputy Washington stated that under normal circumstances he would have the individual not remove their underwear or shorts and would take pictures while having the subject pull the shorts/underwear to the side.

Due to Mr. Aardvark becoming agitated when around Deputy Reagan, Mr. Aardvark was transported from the hospital back to the Jail by Sergeant Lincoln. Deputy Washington followed Sergeant Lincoln to the jail and also accompanied him during the booking process.

I asked Deputy Washington if he had any discussion with Deputy Reagan about what had occurred prior to Deputy Washington's arrival at the First Street location. Deputy Washington thought it was possible, but had no independent recollection of whether or not such a discussion did in fact occur, nor what may have been said during such conversation. However, Deputy Washington believed that while out at the First Street location, Deputy Reagan provided a brief description of finding Mr. Aardvark and Ms. Joplin arguing outside their residence. Deputy Reagan mentioned that he separated Aardvark and Joplin and that Mr. Aardvark attempted to go back into the house. Deputy Reagan said he told Mr. Aardvark not to go into the residence then took hold of him and physically prevented him from going into the residence. Deputy Washington did not recall hearing anyone provide information as to what Mr. Aardvark did that lead to Deputy Reagan needing to use physical force, other than that Mr. Aardvark was not complying with Deputy Reagan's direction. Deputy Washington was unsure if this information was provided to him directly by Deputy Reagan or second-hand, through another Deputy.

Interview of Sergeant Abraham Lincoln

Report prepared by Sergeant William Shakespeare

Date/ Time: Wednesday, February 27, 2000, at 1431 hours
Location: Lompoc Sheriff's Station – Sergeant's Office
Persons involved: Sergeant Abraham Lincoln
Sergeant William Shakespeare

Background information: During this administrative investigation, I learned that Sergeant Lincoln was the on-duty supervisor for the Santa Maria Sheriff's Station, on the date and time of the arrest of Anthony Aardvark on January 32, 2000. Sergeant Lincoln was interviewed to determine what knowledge he possessed about this matter.

Prior to our beginning the interview, Sergeant Lincoln reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was recorded with the knowledge of all persons involved.

Of note, this document is not a chronology of the interview with Sergeant Lincoln. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was recorded using a digital voice recorder. For a verbatim, or chronological account of the interview, refer to the digital audio recording, which is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

Sergeant Lincoln was the on-duty supervisor on January 32, 2000, during the night shift. As such, Sergeant Lincoln was responsible for the overall patrol operations at the Santa Maria Station on the night in question. As the on-duty supervisor, Sergeant Lincoln was Deputy Reagan's direct supervisor and was responsible for insuring that Deputy Reagan appropriately handled and documented the matter involving the arrest of Anthony Aardvark.

Sergeant Lincoln informed me that he was aware of the call on First Street, but was not able to arrive on scene prior to the deputies arresting Aardvark and clearing the location. Sergeant Lincoln explained that when the call for service came out and was subsequently upgraded to an officer needs assistance situation, he was out of position in the Los Alamos area. Sergeant Lincoln was not aware of any issues with the arrest of Anthony Aardvark, until after he heard that Aardvark was being taken to the Lompoc Hospital for medical clearance prior to booking.

Sergeant Lincoln responded to the hospital to ascertain the deputies' status and the reason why it was necessary to have Aardvark examined at the hospital prior to being booked. Concurrently, Deputy Washington contacted Sergeant Lincoln via cell phone and informed him that while at the hospital, Aardvark was claiming that he was injured as the result of the force used by Deputy Reagan. Sergeant Lincoln recalled that Aardvark apparently claimed that his neck was broken during the incident, that he had an abrasion on his neck and that he had been "choked out". Once at the hospital, Sergeant Lincoln made contact with the deputies, and Anthony Aardvark.

Sergeant Lincoln recalled hearing Aardvark make a number of statements about his arrest, basically claiming that he was injured as a result of Deputy Reagan's actions. Aardvark also made statements to the affect that Deputy Reagan had pulled him out of his residence to arrest him. Sergeant Lincoln further recalled that Aardvark repeatedly asked why he was arrested. Sergeant Lincoln felt it was obvious that Aardvark was under the influence of alcohol at the time.

Sergeant Lincoln spoke with Deputy Reagan about the situation. Reagan provided an account of the incident that was consistent with what was written in his arrest report. Of note, Deputy Reagan told Sergeant Lincoln that he had not used the carotid restraint and had not rendered Aardvark unconscious. Deputy Reagan told Sergeant Lincoln that he only used an upper body restraint hold to control and hold onto Aardvark.

Sergeant Lincoln was unable to interview Aardvark in detail about the incident, as Aardvark indicated that he wanted to speak with a lawyer (after being read the Miranda Admonishment). The above statements that Lincoln was able to attribute to Aardvark were spontaneous statements, made absent direct questions by the deputies.

Sergeant Lincoln was aware that Deputy Washington took photographs of Anthony Aardvark, documenting the visible injuries and the lack thereof. Subsequent to this occurring, Sergeant Lincoln learned that Deputy Washington had to take some of the photographs with Aardvark completely naked. Sergeant Lincoln was initially concerned about the manner in which the photographs were taken, but learned this was necessary, as Aardvark was wearing pants and not wearing any underwear at the time.

While at the hospital, Sergeant Lincoln noted that Aardvark became agitated on each occasion in which Deputy Reagan was present. Due to this factor, Sergeant Lincoln made the decision to personally transport Mr. Aardvark back to the jail after he was cleared at the hospital. Aardvark was booked into the Santa Maria Jail without further incident.

Due to his perception that it was likely or possible this matter would turn into a citizen complaint, Sergeant Lincoln decided to contact and interview the witness, Janice Joplin, and obtain a recorded statement about what occurred at the First Street location. Sergeant Lincoln contacted Janice Joplin via telephone and spoke with her about the incident. During this interview, Joplin made statements that were consistent with Deputy Reagan's written report and which were inconsistent with the claims of Aardvark. Sergeant Lincoln recorded this interview on an audio cassette tape, which he retained for future use. I made a digital audio copy of the recording and had Sergeant Lincoln retain the original audio cassette recording for evidentiary purposes in the criminal case.

Sergeant Lincoln confirmed that Deputy Reagan completed all required paperwork relating to this matter. I also subsequently contacted and spoke with the Lompoc Sheriff's Station Lieutenant, Lieutenant Elmer Fudd and confirmed that all required paperwork associated with this matter had been completed, submitted and reviewed, as is required by department policy.

Interview of Deputy Theodore Roosevelt

Report prepared by Sergeant William Shakespeare

Date/ Time: Wednesday, February 27, 2000, at 1352 hours
Location: Lompoc Sheriff's Station – Sergeant's Office
Persons involved: Deputy Theodore Roosevelt
Sergeant William Shakespeare

Background information: During this administrative investigation, I learned that Deputy Roosevelt was present at the First Street location where Anthony Aardvark was arrested. Deputy Roosevelt was interviewed to determine if he made any observations relevant to this investigation.

Prior to our beginning the interview, Deputy Roosevelt reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was recorded with the knowledge of all persons involved.

Of note, this document is not a chronology of the interview with Deputy Roosevelt. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was recorded using a digital voice recorder. For a verbatim, or chronological account of the interview, refer to the digital audio recording, which is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

Prior to beginning the interview, I provided Deputy Roosevelt with information about the basic nature of this investigation and my need to interview him as a witness. I asked Deputy Roosevelt if he made any audio or video recordings related to the call on First Street and/or Sheriff's Personnel interaction with Anthony Aardvark. Deputy Roosevelt stated the only recordings he made were the result of his COBAN in-car video system. Deputy Roosevelt believed the COBAN system was activated by his code 3 response to First Street. Of note, this was one of the recordings I found when searching the COBAN system for videos associated with the matter in question. In reviewing the COBAN footage, I noted that although the car microphone was activated and recording on Deputy Roosevelt's COBAN video, the body microphone did not appear to be activated or causing audio recordings. Deputy Roosevelt believed that he was wearing a COBAN microphone on his person at the time, however, he surmised that he may have failed to synchronize the microphone to the COBAN system, thus causing the system to not capture the audio recording.

Deputy Roosevelt stated that he was initially assigned to be the primary unit on the First Street call. Roosevelt recalled that dispatch provided information that there was a disturbance at the First Street location, possibly involving a fight between a father and son. Because Deputy Reagan was closer, he took over as the primary unit on the call. Deputy Reagan arrived at the First Street location prior to Deputy Roosevelt. A couple of minutes after Deputy Reagan arrived at the First Street location, Deputy Reagan made a radio broadcast in which he indicated he had a combative subject. Deputy Roosevelt believed that he could hear a struggle occurring in the background of this radio transmission. As

result of this radio transmission, Deputy Roosevelt and Deputy Washington began a code 3 response to the First Street location.

Deputy Roosevelt believed that he and Deputy Washington arrived at the First Street location at about the same time. Deputy Roosevelt recalled there was some question as to the actual location involved and this resulted in them making contact at the reporting party's residence. The person at the reporting party's residence pointed them toward the correct location, Anthony Aardvark's residence. Deputy Roosevelt recalled that during this same time frame, dispatch was attempting to check on Deputy Reagan's status. Deputy Roosevelt recalled hearing Reagan make an additional radio transmission and as a result of this transmission, Deputy Roosevelt understood that Deputy Reagan was still struggling with the subject. As the reporting party directed them to the proper location, Deputy Washington had already begun running toward Deputy Reagan.

By the time Deputy Roosevelt arrived at Deputy Reagan's location, Deputy Washington was assisting Deputy Reagan in rolling Mr. Aardvark to his stomach and handcuffing him. Deputy Roosevelt recalled observing an additional female standing nearby, close to the rear entryway of the residence. When asked, Deputy Roosevelt stated that he did not observe any of the interactions involving Deputy Reagan and Anthony Aardvark, which occurred prior to Deputy Washington assisting Deputy Reagan in taking Aardvark into custody. Deputy Roosevelt reiterated that when he first was able to visually observe the interactions, Deputy Washington was already present, they had turned Anthony Aardvark onto his stomach and were in the process handcuffing him.

Deputy Roosevelt did not assist in handcuffing Aardvark. Deputy Roosevelt assisted in escorting Aardvark to the patrol vehicles and stood by at the patrol vehicles while Deputies Reagan and Washington returned to speak with the woman. Deputy Roosevelt went on to state that as he was watching Aardvark, Aardvark sat quietly in the back of the patrol car, looking straight ahead. Deputy Roosevelt did not speak with Aardvark about the incident.

I asked Deputy Roosevelt if he personally observed any point in time where it appeared that Anthony Aardvark had lost consciousness. Deputy Roosevelt stated that he did not. When asked, Deputy Roosevelt also stated that he did not hear Anthony Aardvark make any statements claiming that he was made unconscious by Deputy Reagan. Aardvark also made no statements claiming that he was choked. Aardvark also made no statements about the events that lead to his arrest and interaction with Deputy Reagan.

When asked, Deputy Roosevelt stated that he did not at any point and time speak with Janice Joplin about the incident. Deputy Roosevelt also did not hear any verbal interactions involving Joplin in which she described what occurred at the location.

Deputy Roosevelt stated he was not involved in the transport of Anthony Aardvark from the First Street location to the Jail, or from the Jail to the Lompoc Hospital and back to the Jail. Deputy Roosevelt had no further interaction or observations of Anthony Aardvark after they left the First Street location.

I asked Deputy Roosevelt if he had any conversations with Deputy Reagan subsequent to the event in which Deputy Reagan discussed what occurred at First Street. Deputy Roosevelt stated he did and that Deputy Reagan told him that Aardvark was outside the residence and intoxicated upon his arrival. Deputy Reagan indicated he was unsure if

Aardvark was involved in a domestic violence incident involving Joplin. Reagan described that Aardvark became belligerent and confrontational during the contact and attempted to go back into the house, against Deputy Reagan's direction. Deputy Reagan took hold of Aardvark in an attempt to prevent him from entering the house. At this point, Aardvark began to struggle with Deputy Reagan and Deputy Reagan continued attempting to restrain Aardvark and prevent him from entering the house. Deputy Reagan stated that the struggle ended up on the ground. Deputy Reagan claimed that he continued attempting to restrain Aardvark. Reagan further detailed that while he was attempting to restrain Aardvark, Aardvark was calling toward his girlfriend and requesting the girlfriend become involved and assist him in overcoming Deputy Reagan.

Deputy Roosevelt did not recall Deputy Reagan indicating that he utilized a chokehold or carotid restraint during his attempts to control and restrain Aardvark. I asked Deputy Roosevelt if Deputy Reagan described any detail as to the type of hold he had on Aardvark's upper body. Deputy Roosevelt believed it was not a carotid restraint or chokehold, but that Deputy Reagan had his arms around Aardvark's upper body, possibly across the shoulder and neck area. Deputy Roosevelt recalled that Deputy Reagan made a statement that he was not attempting to choke Aardvark but was simply attempting to restrain him and prevent him from freeing himself.

I asked Deputy Roosevelt if he spoke with Deputy Washington and inquired about what Washington had observed prior to Deputy Roosevelt's arrival. Deputy Roosevelt he did and that Deputy Washington had observed Deputy Reagan on his back with his arms around Anthony Aardvark's upper body, shoulder/neck area. Deputy Washington indicated that Deputy Reagan appeared to be only holding on to Mr. Aardvark. Deputy Washington described that he ran over and assisted Deputy Reagan in rolling Mr. Aardvark over to his stomach and handcuffing him. When asked, Deputy Roosevelt stated that Deputy Washington did not make any reference to having observed Mr. Aardvark to have lost consciousness.

Interview of Deputy John Adams

Report prepared by Sergeant William Shakespeare

Date/ Time: Wednesday, February 27, 2000, at 1524 hours
Location: Lompoc Sheriff's Station – Sergeant's Office
Persons involved: Deputy John Adams
Sergeant William Shakespeare

Background information: During this administrative investigation, I learned that Deputy Adams was present at the First Street location where Anthony Aardvark was arrested. Deputy Adams was interviewed to determine if he made any observations relevant to this investigation.

Prior to our beginning the interview, Deputy Adams reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was recorded with the knowledge of all persons involved.

Of note, this document is not a chronology of the interview with Deputy Adams. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was recorded using a digital voice recorder. For a verbatim, or chronological account of the interview, refer to the digital audio recording, which is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

Prior to beginning the recorded interview, I informed Deputy Adams of the general nature of this matter and my need to interview him as a witness. I also asked Deputy Adams if he made any audio or video recordings of his interactions in and around the 123 First Street location, or which were otherwise associated with Anthony Aardvark. Deputy Adams informed me the only such recording he possibly could have made would have occurred as result of the COBAN in-car video system, as a result of his Code-3 response to the location. However, Deputy Adams was unsure if the COBAN system in his patrol vehicle was working on the date in question. Of note, as part of this Administrative Investigation, I searched the COBAN system and retrieved all videos that were associated with the First Street incident. I did not locate any videos made by the patrol vehicle Deputy Adams was operating on the evening in question.

I then asked Deputy Adams to share his observations of the matter in question. Deputy Adams informed me that he was on an unrelated traffic stop when Deputy Reagan initially responded to and arrived at the First Street call for service. Deputy Adams was aware that the call for service on First Street involved some form of domestic dispute and that Deputy Reagan and other deputies were responding to handle the call. While Deputy Adams was handling the unrelated traffic stop, he heard Deputy Reagan make a radio broadcast indicating he had a combative subject. Upon clearing the unrelated traffic stop, Deputy Adams began a Code-3 response to back Deputy Reagan on First Street.

By the time Deputy Adams arrived at First Street, Deputies Washington and Roosevelt were already on scene and had apparently assisted Deputy Reagan in taking the combative

subject, Anthony Aardvark, into custody. At the time of Deputy Adams arrival, he found that Aardvark was already handcuffed and secured in the back seat of Deputy Reagan's patrol vehicle. Deputy Adams did not have any interaction with Aardvark, nor did he personally witness any interaction between the other deputies and Aardvark.

Deputy Adams was present for a portion of the verbal interaction between Deputy Reagan and Janice Joplin. Deputy Adams observed that Deputy Reagan was obtaining Joplin's contact information and asking her questions that were apparently related to the incident that occurred prior to Deputy Adams' arrival. Deputy Adams could not recall much in the way of specific information relating to Joplin's account of what occurred. What Deputy Adams did recall was that Joplin indicated that she and Aardvark were outside their residence arguing when Deputy Reagan arrived on scene. Deputy Adams also recalled Joplin made a specific comment to the affect that when Deputy Reagan was struggling to restrain Anthony Aardvark, that Aardvark had called out to Joplin, asking her to assist him in his attempts to get free of Deputy Reagan. Deputy Adams recalled Joplin stating that she initially was going to assist Aardvark, but after thinking about it decided not to. Joplin further made a statement about respecting law enforcement. Joplin also made a statement to the affect that, "That wasn't right," indicating that she did not believe that Anthony Aardvark was acting appropriately towards Deputy Reagan. Joplin also stated something to the affect that she had told Aardvark to just comply with what the Deputy was telling him to do.

I asked Deputy Adams if Deputy Reagan told him anything about what occurred prior to Deputy Adams arrival at the First Street location. Deputy Adams stated that upon his arrival at the scene, Deputy Reagan had briefly described to him what occurred. Deputy Reagan told Deputy Adams that upon arrival he found Aardvark and Joplin outside their residence. At one point in the contact, Aardvark attempted to go back into the residence and was told by Deputy Reagan not to do this. Deputy Reagan told Deputy Adams that he had directed Mr. Aardvark to sit on the ground. At some point, Mr. Aardvark stood up and made a statement to the affect that he was going to go into the house regardless of Deputy Reagan's direction. Deputy Reagan had to physically restrain Mr. Aardvark to prevent him from going inside the house. Deputy Reagan stated that he told Mr. Aardvark that he was concerned Aardvark could obtain a weapon inside the house and this was the reason he did not want him to go in the house. Mr. Aardvark had apparently made a statement indicating that he might "I might just get a weapon." Deputy Reagan also mentioned something about Aardvark taking hold of a chair during this time frame. When Deputy Reagan attempted to prevent Aardvark from entering the house, Aardvark began fighting with Deputy Reagan resulting in the two going to the ground and wrestling until Deputy Washington arrived on scene to assist in handcuffing Aardvark.

I asked Deputy Adams if Deputy Reagan made any reference to or otherwise indicated that he utilized a carotid restraint on Aardvark. Deputy Adams said that Deputy Reagan did not make any such reference. I asked Deputy Adams if Deputy Reagan in anyway indicated what type of control hold he utilized on Aardvark which Deputy Adams said he did not.

I related the basic allegations that Anthony Aardvark made against Deputy Reagan and asked Deputy Adams if he was aware of any information that was potentially relevant to those allegations which we had not previously discussed in the interview. Deputy Adams stated he was not aware of any other relevant information regarding the allegations.

Interview of 911 reporting party – Betsy Ross

Report prepared by Sergeant William Shakespeare

Date/ Time: Friday, February 22, 2000, at 1440 hours
Location: Telephonic interview
Persons involved: Betsy Ross
Virginia Union
Sergeant William Shakespeare

Background information: In reviewing the Computer Aided Dispatch (CAD) record for the call for service that resulted in Anthony Aardvark's arrest by Deputy Reagan, I noted the reporting party was Betsy Ross. I contacted Betsy Ross to determine if she witnessed the interaction between Deputy Reagan and Anthony Aardvark. During this interview, I learned Ross's mother, Virginia Union, audibly witnessed a portion of the contact between Deputy Reagan and Anthony Aardvark. Union was subsequently contacted and interviewed about her observations.

Betsy Ross indicated that she did not observe the initial interactions between Deputy Reagan and Anthony Aardvark. Ross and her mother heard Aardvark loudly arguing with his girlfriend (she actually thought it was his son, but the girlfriend has a husky voice, that could be easily mistaken for that of a male). As Ross and her mother walked near their adjoining fence, Aardvark was heard abruptly shutting a window. The confrontation seemed to continue, with what sounded like physical struggles occurring within the house. Because of this, Ross called the Sheriff's Department and requested deputies respond, but wished to remain anonymous.

Upon arrival, the Deputy Reagan initially went to Ross's house. Ross told Deputy Reagan the problem was at Aardvark's residence. Ross was surprised that Deputy Reagan was alone, as deputies usually had back-up when dealing with Aardvark. Ross explained that Aardvark was violent and hot tempered, having verbally accosted Ross's husband in the past.

Ross stated she was in her residence at this point and did not observe or hear the interactions between Deputy Reagan and Aardvark. However, Ross knew that her mother apparently heard a portion of the interaction. Ross also felt it was possible their neighbors heard or saw the interaction. Ross said she would have her mother and her neighbors contact me to speak about this topic.





Ross saw the deputies walking Aardvark toward their cars. From Aardvark's mannerisms, it appeared that he was being uncooperative with the deputies' requests.

I spoke with Virginia Union, who related that she heard a short verbal interaction between the deputy and Anthony Aardvark. At the time, she was walking between her residence and her daughter's residence (separate units on the same property). Union heard the deputy yell, "Get down... I said get down!" Union did not visually observe the interaction and

did not know where the deputy and Aardvark were at that point. Union did not hear any further statements from the deputy or from Aardvark.

Following the above reports included in the tabbed “Interviews & Reports” section, a “Documents” section should then incorporate any relevant CAD entries, booking records, Administrative Investigation admonishments, subject letters or other relevant materials.

Lastly, the following format could be used to record the pertinent digital data to a CD/DVD included in the “Miscellaneous” tab:

Name	Date modified	Type	Size
 Coban Video	6/16/2000 11:33 AM	File folder	
 Dispatch traffic	6/16/2000 11:33 AM	File folder	
 Patrol Photographs 01-32-2000	6/16/2000 11:33 AM	File folder	
 Interview Recordings	6/16/2000 11:33 AM	File folder	



**Exemplar Investigation
EXAMPLE #2**

Santa Barbara County
Sheriff's Department

ADMINISTRATIVE
INVESTIGATION
Professional Standards Unit

THIS REPORT IS CONFIDENTIAL. ANY INDIVIDUAL NOT SPECIFICALLY AUTHORIZED IN WRITING BY THE SHERIFF WHO EXAMINES THIS REPORT, OR WHO REMOVES IT FOR ANY PURPOSE FROM THE PROFESSIONAL STANDARDS UNIT, WILL BE SUBJECT TO DEPARTMENTAL DISCIPLINE AND/OR CRIMINAL PROSECUTION. DO NOT PROCEED BEYOND THIS COVER SHEET UNLESS CONFIDENT OF YOUR AUTHORIZATION.

CONFIDENTIAL

Professional Standards Unit Investigation

1985-58

Subjects: Detective Salvador Guerrero, Detective Marvin Hunter, AOP Geneva Hill and generalized SBSO policy, procedures and practices

Administrative investigation of a citizen complaint filed by Garrett Barton on or about January 8, 1985. In the complaint, Mr. Barton made a number of allegations against the named Sheriff's personnel, and our agency including:

- Discourtesy
- Abusive handling
- Unjustified arrest/booking charges
- Policy, procedures and practices that made it impossible for Barton to comply with PC290 reporting requirements.

The administrative investigation determined that our agency's policy, procedures and practices relating to processing PC290 reporting requirements was flawed.

Date of Occurrence: February 10, 1985

Submitted by:
Sergeant Ralph Reyes
Administrative Investigation 1985-58
Table of Contents

Investigative Report

Conclusion

- Investigative conclusion

Interviews and reports

1. Statements of complainant, Garrett Barton
 - a. Citizen complaint form submitted by Barton.
2. Review of audio/ video recording of detective interview that occurred on February 10, 1985.
 - a. Actual recording can be viewed on DVD media disk in Misc section of this file.
3. Interview of Detective Salvador Guerrero
 - a. SBSO reports documenting Garrett Barton's arrest
4. Interview of Detective Marvin Hunter
5. Interview of Forensics Secretary (AOP) Geneva Hill
6. Interview of EXH employee Nadia Amada
7. Review of Jail Medical Documentation
8. Interview of Michael Jacobi

Documents

1. Copy of SBSO press release related to Barton's arrest on Feb. 10, 1985
2. Copy of relevant CA Penal Codes relating to sex registrants
3. Sheriff's documents extracted from RMS, JMS, SBSO Outlook calendar and Garrett Barton's Inmate Records file

Miscellaneous

- One DVD media disk containing all files related to this investigation
 - Interview recordings
 - Emails relating to the investigation
 - All documentation that is mentioned within this file, which was not physically printed for inclusion in the file

Professional Standards Unit

Investigative Report

1985-58

On Wednesday, January 9, 1985, Garrett Barton came to the Sheriff's Headquarters' lobby and submitted a Citizen Complaint form. Mr. Barton was provided with the required copy of his complaint by Senior Deputy John Crosby who accepted the complaint on behalf of our department. Senior Deputy Crosby forwarded the complaint to the Professional Standards Unit along with an e-mail describing the manner in which it was received and processed.

Upon reviewing the Citizen Complaint form submitted by Mr. Barton, I found it to be disjointed and lacking in detail. I printed out copies of the related Sheriff's Department reports and other records (RMS, JMS). The first inconsistency or issue that I found with the information contained in Mr. Barton's complaint was his claim of having been made to stand in a 4'x5' foot room within the jail for a period of 15 hours. In reviewing the JMS record, I noted that Mr. Barton was booked into the jail on February 10, 1985, at approximately 1336 hours, and was released 10 hours and 41 minutes later on February 11, 1985, at 0017 hours.

I contacted Professional Standards Detective Linda Hyatt and requested that she obtain the Jail Medical Records for Mr. Barton and that she obtain and review the IRC video surveillance footage for the timeframe in which Mr. Barton was in custody at the Santa Barbara County Main Jail. These items were relevant, as they would likely provide some form of objective evidence with regard to Barton's claim that he was left in the small 4'x5' foot room for 15 hours, as well as his claim that the Jail medical staff ignored him when he described his medical problems.

In reviewing the jail medical documentation, it was apparent that the jail medical nurse who interviewed Mr. Barton was in fact paying attention to what Mr. Barton had to say about his medical conditions. The medical interview was conducted by Registered Nurse Sophia Rapozzo at the indicated time of 1455 hours. The notes indicated that Barton claimed he suffered from post traumatic stress disorder as a result of his Vietnam service and it further noted that Mr. Barton complained of lower back pain as a result of a motor vehicle accident that occurred approximately 2 ½ weeks prior. The medical notes also indicated a medication that Mr. Barton took or was scheduled to take at 9 p.m. (trazodone), an anti-depressant. Of particular interest, the nurse's notes indicated that Mr. Barton had "no complaints at this time," indicating that he was not complaining of current pain or injury at the time of the interview/exam by jail medical staff.

I reviewed the inmate intake/medical screening form that was completed by Custody Deputy John Singer on February 10, 1985, at 1336 hours. Of note, in completing question 5, CD Singer indicated that Mr. Barton did not have any cuts, bruises, or minor injuries. This is relevant in that Mr. Barton would later claim that the handcuffs were applied to

tightly by Detective Guerrero and had cut off feeling to his hands. If any injury to the wrist had been present, and brought to the attention of the Receiving Custody Deputy it would have been noted within this form. I also noted that CD Singer listed several medications that were taken by Mr. Barton, along with a note that Mr. Barton indicated he had chronic bronchitis and had been hit by a car 3 days prior to his booking at the Jail (of note, approximately one hour later Barton would tell the Jail RN that the collision injury occurred 2 ½ weeks prior). *Of interest, while investigating this complaint and specifically while interviewing Mr. Barton, it became apparent that he was a chronic liar, or had some form of condition that resulted in his inability to keep his story straight and his statements factual.*

Professional Standards Detective Linda Hyatt reviewed the IRC surveillance footage and made the following relevant observations. Mr. Barton was brought into the Jail by Detectives Jennings and Tosti on February 10, 1985, at approximately 1323 hours. The jail medical nurse was observed meeting with Mr. Barton during the receiving process. Based upon the video evidence, it is apparent that Mr. Barton's claim of being left in a 4'x5' room for 15 hours was completely inaccurate. Based upon the objective information reviewed during this investigation, it was apparent that Mr. Barton's claims with regard to his treatment and the overall situation in the Jail was unfounded. *This information was included within the investigation of this facet of this complaint, as it lends weight (or the lack thereof) to the question of whether or not Mr. Barton is truthful and accurate in his account.*

I reviewed the offense/arrest reports documenting the circumstances under which Garrett Barton was arrested on February 10, 1985, SBSO case number 85-72136. I noted that the detective's interview with Barton on February 10, 1985, was audio/video recorded and available via the investigative case file maintained by Detective Salvador Guerrero. I contacted Detective Guerrero and obtained a copy of the interview recording.

On Thursday, January 16, 1985, I reviewed the evidentiary DVD recording of the CID interview of Garrett Barton, conducted by Detectives Salvador Guerrero and Marvin Hunter. I reviewed the recording in its entirety, evaluating it for information that may be of relevance to the claims made within Garrett Barton's citizen complaint. First and foremost, there was no point within the entirety of that recording at which the detectives interacted with Mr. Barton in a manner that could be objectively viewed as being "verbally abusive." At no time did I observe or hear the Detectives to lose their temper and/or utilize profanity. Moreover, I did not find the detectives to use particularly assertive interviewing techniques with Mr. Barton. There were a couple occasions within the interview in which Mr. Barton appeared to become upset with the Detectives because he apparently felt they were not believing him with regard to his claim that he had not done anything wrong (relative to the indecent exposure violation). He also appeared upset that the detectives were repeatedly confronting him with numerous inconsistencies within his statements.

Although the camera angle did not allow for an overall view of the detectives, I did not see any occasion in which Mr. Barton physically or verbally reacted in a manner that was

consistent with his believing that one of the detectives was preparing to physically assault him (statements, cowering, throwing of hands to block impending assault etc.).

I noted that the detectives were made aware of and confirmed that Mr. Barton made an appointment to come in and comply with the 290 PC registrant requirements on February 24, 1985. However, in considering the involved dates, it was apparent that Mr. Barton was not in compliance with the 290 PC reporting requirements of PC290.013(a), which requires an in person notification to the law enforcement agency of a change of address within 5 days). *However, the question to be ultimately answered was whether or not the Sheriff's Department and/or its personnel had policies, procedures and practices which made it impossible for Mr. Barton to have complied with the reporting requirements.*

On Monday, January 20, 1985, Detective Hyatt and I interviewed Garrett Barton at the Sheriff's Headquarters, Professional Standards Unit. The purpose of the interview was to obtain additional information and try to put the contents of his submitted citizen complaint form into perspective. In interviewing Mr. Barton, it was clearly apparent that much of his complaint was based upon his personal perception of the events and that his perception and expectations were (for the most part) not reasonable.

During the interview, Mr. Barton expressed that his single greatest complaint was that he was booked into Jail for the 290 PC change of address registration requirement violation and that information about this charge was released to the news media. Mr. Barton claimed that he should not have been arrested for this charge because he had called and made an appointment to comply with the 290 PC reporting requirements and that the Detectives were aware that he had made this appointment. Mr. Barton further explained that the he had attempted to make an earlier appointment, but that the Sheriff's Department's procedures prevented him from doing so. Because of this, Barton felt the Sheriff's Department and its employees were responsible for his not being in compliance with the five-day change of address reporting requirement. Barton maintained that his being charged with this crime and the information release to the news media cost him his housing, his job and his wife... *although he immediately back peddled and admitted he did not have a wife.*

During the interview, Mr. Barton complained about the detective arresting him in the court room. Barton claimed that his lawyer told him this was an inappropriate action and should not have been done by the Detectives. Barton further claimed Detective Guerrero applied the handcuffs too tightly, causing him pain and loss of feeling in his hands.

In reviewing the information provided by Mr. Barton, in conjunction with the information already known prior to the interview, it was apparent that the only reasonable and viable portion of his complaint was that which stemmed from his having been booked for the 290 PC reporting violation and the possibility that the Sheriff's Office policy, procedures and practices was such that it was likely not possible for him to have complied with the reporting requirements. All other aspects of his complaint were clearly refuted by the objective evidence already gathered.

I checked the Santa Barbara County Bail schedule, I noted the felony PC314.2 indecent exposure and the felony PC290 charges that Barton were booked on, both had bails of \$20,000. As such, the addition of the 290 PC charge did not add to Mr. Barton's total bail amount, which was set at \$20,000. As such, the addition of the PC290 charge did not cause any additional financial burden to Mr. Barton, in his efforts to be released via the bail process.

In checking the Sheriff's Department News Releases, I found that in February 10, 1985, a News Release was made regarding the arrest of Mr. Barton and that it did list both of the 314.2 and 290 PC violations.

On Wednesday, January 22, 1985, I interviewed Detective Salvador Guerrero. During the interview, Detective Guerrero described that he did not arrest Mr. Barton inside the court room, *as Barton claimed during his interview*. To the contrary, Detective Guerrero described that prior to contacting Mr. Barton, he coordinated with the court personnel and informed them of his intent to take Mr. Barton into custody. Detective Guerrero and Detective Hunter waited until Mr. Barton had left the court room and contacted him in the foyer, between the court room and the courthouse main hallway. While within the foyer, Mr. Barton was handcuffed in a standard manner (behind the back) and was walked to the detective's vehicle, which was parked on the street, adjacent to the District Attorney's Office. At that location, Barton complained about the handcuffs being too tight and Detective Guerrero readjusted the handcuffs, loosening them as much as was safely possible (while still serving the purpose of properly restraining the arrestee). Barton was transported to the Sheriff's Headquarters, CID Interview Room where he was interviewed by Detectives Guerrero and Hunter.

Detective Guerrero stated no portion of their interview with Mr. Barton was not documented within the DVD recording (*establishing that there was no other portion of the interview that could have contained the claimed verbally abusive or assaultive behavior by the detectives*). My prior review of the audio/video recording of the interview established that no such alleged actions/behaviors occurred.

Detective Guerrero stated that while interviewing Mr. Barton, he learned that Barton moved out of the address listed on his 290 registration card on January 22, 1985, and his appointment with the SBSO Forensics Bureau was not until February 24, 1985, well beyond the five working day requirement. Additionally, the interview with Mr. Barton occurred on February 10, 1985, nine working days after Mr. Barton moved out of the residence listed on his 290 registration card. As such, Mr. Barton appeared to have been out of compliance with the PC290.013(a) reporting requirements for change of address. Detective Hunter contacted Forensics Secretary Geneva Hill and confirmed that the appointment made by Barton was for February 24, 1985. Detective Hunter further inquired as to whether or not Mr. Barton making this appointment over the telephone negated the requirement that he notify the Sheriff's Department in person, of the change of address within five working days. Forensics Secretary Hill informed Detective Hunter that the appointment made via the telephone did not negate or meet the change of address reporting requirements of PC290. Based upon the totality of information, Detective Guerrero believed probable cause was present that Mr. Barton had violated the PC290 reporting requirements for his change of address. Because of this, Detective Guerrero added this

charge to Mr. Barton's booking. Detective Guerrero specifically detailed that his probable cause for Barton's actual physical arrest was not based upon the PC290 charges, but upon the felony indecent exposure investigation he was conducting.

Detective Marvin Hunter was interviewed on Wednesday, January 22, 1985. Detective Hunter related a sequence of events that was consistent with that provided by Detective Guerrero.

I coordinated with Forensics Secretary Geneva Hill in an effort to identify when Garrett Barton made the appointment to comply with the 290 PC reporting requirements. Forensics Secretary Hill could not specifically remember when Mr. Barton contacted her, nor could she extract that information from within the Forensics Livescan Outlook Calendar. Forensics Secretary Hill was officially interviewed on January 27, 1985. The information she provided was consistent with that provided by Detectives Guerrero and Hunter. Hill related that due to diminished staffing levels current Forensics procedures/practices were such that Livescan appointments (including 290PC registrants) were booked two weeks in advance. Furthermore, our agency does not have any other procedure in place that would allow a 290 registrant to comply with the five working day reporting requirement.

I then contacted the Sheriff's Systems and Technology Bureau and coordinated with them to extract additional information regarding Barton's appointment within the Forensics Livescan Outlook Calendar. Ultimately it was determine that Barton's appointment was made on February 3, 1985, at approximately 1500 hours. Based upon this information, it appeared that Mr. Barton had made some form of effort within the required five working days to comply with the PC290 reporting requirements. However, he was still technically not in compliance with the requirements, as he did not do so in person, or provide the Sheriff's Office with his new address, as required by Penal Code section 290.013(a).

However, in researching and discussing this topic, it became apparent that there were flaws within our agencies policies, procedures and practices, with regard to processing PC290 registrants in a timely manner. In short, our policies, procedures and practices were such that it would likely make it near impossible for a registrant to comply with a five working day requirement for PC290 change of address notifications.

I contacted the SBSO CID/Forensics Chain of Command and notified them of this apparent deficiency within our agency's policies, procedures, and practices relating to PC290 registrants. I set into motion efforts to address and remedy these deficiencies in the policies, practices and procedures. I also ensured that this relevant information would be shared with the District Attorney's Office, insofar as the PC290 violation charges relating to Garrett Barton (allowing them to make an informed decision as to whether or not they should proceed with that specific charge against Barton).

In concluding this administrative investigation, it was apparent the allegations made by Mr. Barton with regard to our department employees were completely unfounded. However, it appeared our agency had a set of policies, practices and procedures which likely made it near impossible for Mr. Barton to comply with the PC290 change of address reporting requirements. This ultimately resulted in an additional charge of PC290.2 being added to Mr. Barton's booking into SBC Jail on February 10, 1985. There was no evidence that this was the result of the nefarious intentions or malpractice on the part of a particular Sheriff's employee, but that of a flawed system. Efforts are being made to rectify this issue and ensure that it is not repeated.

SANTA BARBARA COUNTY SHERIFF'S DEPARTMENT
PROFESSIONAL STANDARDS UNIT
INVESTIGATIVE CONCLUSION
CASE # 1985-58

Date Received: Jan 11, 1985	Date Complete: July 26, 1985	Date to Staff: July 26, 1985
-----------------------------	------------------------------	------------------------------

COMPLAINANT'S NAME: Garrett Barton

COMPLAINANT'S ADDRESS: 111 Any Street, Solvang

DATE OF INCIDENT: February 10, 1985	TIME: 1400 hours
-------------------------------------	------------------

LOCATION: 111 Any Street, Solvang

SUBJECT(S): Detectives Salvador Guerrero & Marvin Hunter, AOP Geneva Hill

ASSIGNMENT: CIB	RANK: Detective / AOP
-----------------	-----------------------

ALLEGATIONS (list each separately)	DISPOSITION
Lexipol §340.3.2(k) - Discourtesy, Disrespectful Treatment of the Public	LEAVE
Lexipol §340.3.5(v) - Exceeding Lawful Peace Officer Powers	THESE
	FIELDS
	BLANK

DISPOSITIONS

SUSTAINED. The investigation disclosed a preponderance of evidence to prove the allegation(s) made in the complaint.	
NOT SUSTAINED. The investigation failed to disclose a preponderance of evidence to prove or disprove the allegations(s) made in the complaint.	
UNFOUNDED. The investigation conclusively proved that the act(s) alleged did not occur, or the act(s) may have occurred but the individual employee(s) named in the complaint(s) was not involved.	
EXONERATED. The facts which provided the basis for the complaint or allegation did in fact occur, however, the investigation revealed that the actions were justified, lawful and proper.	

INVESTIGATOR: _____	DATE: _____
DIVISION COMMANDER: _____	DATE: _____

(Signature)

CID Garrett Barton interview – Review of DVD recording

Report prepared by Sergeant Ralph Reyes

Date/ Time: Thursday, January 16, 1985 at 1100 hours
Location: SBSO Headquarters – Professional Standards Unit
Persons involved: Sergeant Ralph Reyes

In the citizen complaint submitted by Garrett Barton, he alleged that the detectives who interviewed him on 2/12/1985, were verbally abusive during the interview. He further alleged that at one point in time, the interviewers made Barton afraid that he was going to be physically assaulted by the detectives. During the Professional Standards interview of Barton, he additionally claimed the detectives were aware that he was not in violation of his 290PC reporting requirements and yet decided to arrest him for this violation anyway. Barton further claimed that Detective Guerrero applied handcuffs too tightly, causing him to loose feeling in his hands.

In reviewing the arrest report (85-72136), I noted that the interview of Garrett Barton was recorded by SBSO detective personnel. I contacted the primary investigator for the criminal case against Barton, Detective Salvador Guerrero, and obtained a copy of the recorded interview (video and audio). This recorded interview was reviewed for evidence substantiating or refuting the claims made by Barton in the citizen complaint he submitted.

In the Citizen Complaint form he submitted, Garrett Barton complained about the detectives involved in his arrest on February 10, 1985 (later determined to be Detective Salvador Guerrero and Detective Marvin Hunter). Specifically, Barton wrote, "Arrested in court room in a grossly unfeeling and harsh rough manner." Further within the complaint, Barton wrote, "When in detective room, the detectives were not only verbally abusive but a one time I was afraid one was going to jump out of chair and hit me." *Of note, the improper grammar in these statements was that of Barton and not the author of this report.*

Upon reviewing the arrest report authored by Detective Salvador Guerrero, I noted the report indicated Detective Guerrero recorded his interview with Garrett Barton utilizing the standard CID audio/ video recording devices. I further noted that Detective Guerrero retained the DVD containing the recorded interview within the investigative file maintained by Guerrero. I contacted Detective Guerrero and requested/ obtained a copy of the original recording.

On January 16, 1985, I reviewed the interview recording in its entirety. I found the recording to be 1 hour and 52 minutes in length, with no date or time stamp present within the recording.

The first thing I noted as the recording commenced was that Barton had a styrofoam cup in front of him at the table within the CID Interview Room. This was indicative of the detectives having given him access to water prior to the interview. This is a relatively common practice done to make the arrestee more comfortable. As the recording

progressed, it was apparent that Barton was in the interview room by himself at the onset of the recording. Approximately 5 minutes into the recording, Detective Guerrero and Hunter entered the Interview Room. Detective Guerrero was the primary interviewer, with very few instances in which Detective Hunter asked questions, or otherwise spoke up.

Detective Guerrero began the interview by informing Mr. Barton that he was under arrest for indecent exposure, then read Barton the Miranda Admonishment. Barton acknowledged his constitutional rights and waived them. Detective Guerrero then moved on to asking about Barton's medical issues. Throughout the interview, it was quite apparent that Barton was attempting to withhold information and/or was untruthful with Detective Guerrero. Barton was unable to keep his story straight for any length of time, contradicting himself throughout the entirety of the interview. The Detectives took an approximately 7 minute break between the 42 minute time frame and the 49 minute time frame, leaving Barton in the interview room alone.

After reviewing the interview in its entirety, I did not see or hear any instance in which either Detective Guerrero or Detective Hunter spoke toward Mr. Barton in a rude, abusive or threatening manner. I did not hear either detective use any harsh or intimidating language. In observing Mr. Barton's physical reactions and gestures throughout the interview, I did not see a single instance in which it appeared (visible or audible reaction) that would objectively indicate that he believed he was going to be assaulted by the detectives (for example, moving hands to block an impending blow, cowering in the corner, or any other body movements, or facial expressions or verbal statements that might lead a reasonable person to believe Barton thought some form of physical assault was impending).

After having reviewed the interview, it appeared that both Detective Guerrero and Detective Hunter acted completely professional and in a manner entirely appropriate for the circumstances at hand, a suspect interview. Being an experienced investigator and interviewer, I did not find the detectives to have used what I would consider to be assertive interviewing techniques/ tactics. There appeared to be no reasonable basis for the claims made within Mr. Barton's Citizen Complaint relating to the interview by Detectives Guerrero and Hunter.

During his interview with Professional Standards Unit investigators on 1/20/1985, Barton made two additional allegations, beyond those documented in his written complaint. Barton claimed the detectives inappropriately applied the handcuffs in a manner that cut off feeling to his hands. Barton also complained that Detectives Guerrero and Hunter had confirmed and knew that Barton made an appointment to comply with the PC290 change of address reporting requirements and should not have arrested him for this violation. Barton claimed he knew the detectives were aware of this, as they discussed this during the interview with Barton.

On 1/22/1985, I reviewed the CID interview recording a second time, specifically to address the claims made by Barton during his interview with Professional Standards investigators. With regard to the claim that the handcuffs were applied too tightly, I did not hear or see anything within the video that was indicative of this having occurred (direct statements, complaints of pain, obvious injuries to wrists or rubbing of wrists).

With regard to the detective's knowledge that Barton had made an appointment to comply with the PC290 reporting requirement for an address change, at approximately one hour and thirty-seven minutes into the recording, Detective Guerrero and Barton began discussing Barton's PC290 status. A couple minutes later, Detective Guerrero engaged in a line of questioning, relating to Barton having changed residences approximately two weeks prior to the interview, which was not consistent with the address on Barton's registration card. Barton claimed that he called "Nadia" (was actually Geneva Hill), approximately 1 ½ weeks prior to the interview and was given an appointment to fulfill the address change reporting requirements on February 24, 1985. Detective Hunter was heard stating he was going to go check on this claimed appointment. Detective Guerrero received consent from Barton to search through Barton's cellular telephone. Guerrero appeared to have found a calendar entry within Barton's cellular telephone, indicating that he had an appointment to take care of his PC290 reporting requirements on February 24, 1985, at 1300 hours. A few minutes later, Detective Hunter apparently entered the interview room and related that he was able to confirm Barton had an appointment with SBSO forensics to take care of his PC290 reporting requirements on February 24, 1985, at 1300 hours. There was no discussion as to whether or not the making of an appointment was sufficient to meet the requirements of PC290.013(a) (which requires that a registrant show up *in person* at the department to notify the agency of the change of address).

No other relevant information was gleaned from the interview recording.

Interview of Detective Salvador Guerrero

Report prepared by Sergeant Ralph Reyes

Date/ Time: Wednesday, January 22, 1985, at 0930 hours
Location: Sheriff's Headquarters - Professional Standards Unit
Persons involved: Detective Salvador Guerrero
Sergeant Ralph Reyes

Detective Guerrero was interviewed as a subject of this administrative investigation. As a result of the investigation, Detective Guerrero was identified as one of the two Sheriff's detectives that Garrett Barton was complaining about in the citizen complaint he submitted. Prior to being interviewed, Detective Guerrero was provided with a written notice complying with the Peace Officers Bill of Rights, informing him of the nature of the complaint, the basic allegations and the involved Sheriff's Department policies. Detective Guerrero was also advised of his right to have a representative of his choice present during the interview. Detective Guerrero elected to not have a representative present during the interview and agreed to be interviewed on the same date as he was provided notice.

Prior to our beginning the interview, Detective Guerrero reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was recorded with the knowledge of all persons involved.

Of note, this document is not a chronology of the interview with Detective Guerrero. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was digitally recorded with the knowledge of all persons present. The recording, as a verbatim account of this interview, is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

In interviewing Detective Guerrero, I went chronologically through the Citizen Complaint submitted by Garrett Barton. The first issue within Barton's complaint that related to Detective Guerrero was Barton's claim that he was arrested in an "unfeeling", "harsh" and "rough" manner. I asked Detective Guerrero to describe the manner in which Garrett Barton was taken into custody. Detective Guerrero explained that as a result of conducting the investigation into the reported indecent exposure documented under Sheriff's case number 85-2136, Detective Guerrero had probable cause to believe that Barton committed a felony violation, indecent exposure with priors. Furthermore, Detective Guerrero learned Garrett Barton would be in SBSC Department 11, on February 10, 1985. Knowing this would be a location he could locate Barton, Detective Guerrero elected to contact Barton at this location.

Prior to contacting Barton, Detective Guerrero made contact with the court bailiff and the judge, informing them of his intent to take Barton into custody after his court hearing on that date. Arrangements were made to have Barton's case heard first, whereupon he would be taken into custody by Detective Guerrero. Detective Guerrero remained within the court room while Detective Hunter went into the foyer between the court room and the main lobby area of the Courthouse. At the conclusion of the court proceedings involving Barton,

Barton was allowed to leave the actual court room and was first contacted by Detective Hunter and Detective Guerrero inside the foyer between the court room and the main hallway. I specifically confirmed that Barton was not contacted by either Detective while he was inside the court room (as was claimed by Barton during his interview).

Upon contacting Barton, Detective Guerrero identified himself as a Sheriff's Detective and informed Mr. Barton that he was placing him under arrest. Detective Guerrero did not provide Barton with information about the circumstances or basis of the arrest, but instead informed Barton that he would provide further information once they were at the Sheriff's Station. At this time, Detective Guerrero directed Barton to turn around and place his hands behind his back. Detective Guerrero then handcuffed Barton using standard low risk handcuffing techniques. In this low risk handcuffing technique, Detective Guerrero did not take hold of both of Mr. Barton's arms at the same time, but rather took hold of one arm placed the handcuffs around the wrist of that arm, then took hold of the other arm and placed the handcuff around the second wrist. The handcuffing procedure went without incident and Barton was then walked down to the location where Detective Hunter and Guerrero parked their Detective vehicle.

Once at the detective vehicle, Barton made mention of his believing that the handcuffs were too tight on his wrists. In response, Detective Guerrero loosened the handcuffs and repositioned the handcuffs on Barton (while still insuring that they were applied in such a manner as to insure proper restraint). Barton was then directed to take a seat within the vehicle and was transported to the Sheriff's Station without further incident. When asked, Detective Guerrero stated that after that initial comment about the handcuffs being too tight, Barton did not make any further mention of that nor of his hands being injured or hurting.

I then moved to the portion of the Citizen Complaint where Barton claimed that the Detectives were verbally abusive toward Barton. I informed Detective Guerrero that I had reviewed the entirety of the recording of the interview with Barton and the Detectives and that I did not observe a single instance in which I observed the Detectives to utilize abusive language or tactics, nor of any instance in which their interactions with Barton seemed anything but appropriate for the circumstances. I asked Detective Guerrero if there were any instances in which he and/or Detective Hunter engaged Barton in extensive discussions or additional interviewing that was not documented within the DVD Media Disc contacting the recorded interview. Detective Guerrero stated there was not. *As such, the reviewer of this Administrative Investigation can ascertain the propriety of the interviewers' language and tactics by objectively viewing the recording. For additional information, refer to the report documenting the review of the interview recording.*

I then moved to the portion of his complaint in which Barton claimed that Detective Hunter was acting and/or speaking in a manner such as to make Barton afraid that Detective Hunter was going to assault him. When asked, Detective Guerrero stated that he did not at any point and time observe Detective Hunter to act and/or speak in a manner that could be reasonably interpreted as preparatory to assault Barton. I then asked Detective Guerrero about Barton's recollection of Detective Guerrero needing to back down or calm down Detective Hunter by moving and/or gesturing his hand, indicating for Hunter to sit down or to calm down. Detective Guerrero stated that he did not at any point and time motion,

gesture or state in any form that Detective Hunter needed to calm down. Detective Guerrero went on to state that the only person within the entirety of that interview that at any time appeared to have lost control of their emotions was Mr. Barton himself. Detective Guerrero further stated that Detective Hunter had very minimal verbal interaction or involvement in the interview.

I then addressed the portion of Barton's statement in which he claimed the detectives knew that he had made an appointment to comply with the 290 change of address requirements and as such should not have booked him for the 290 violations. Detective Guerrero explained that although he added the 290 violation to the booking sheet, the basis of his arresting Barton was the felony to indecent exposure, PC314. Detective Guerrero went on to explain that he was not aware of the circumstances of Barton possibly having violated the 290 PC reporting requirements until toward the end of the interview with Barton, which took place subsequent to the above noted arrest. During the interview, Barton and Detective Guerrero discussed his 290 PC reporting requirements and in reviewing Barton's 290 PC documentation, Detective Guerrero noted that the documentation did not display Barton's current address. Detective Guerrero noted that earlier in the interview, Barton told Detective Guerrero that he had moved out of his old residence and into his new residence approximately two weeks prior to the interview. Based upon this information, Barton appeared to be in violation of the 290 PC requirements that registrants show up at the Sheriff's Department in person and notify the Sheriff's Department of their change of address within five working days of that change occurring.

Detective Guerrero explained that Barton claimed that he had made an appointment to comply with the 290 PC change of address reporting requirements and believed that appointment was set for February 24, 1985. After having obtained consent to review the contents of Barton's telephone, Detective Guerrero even found a calendar entry within the telephone indicating that Barton had an appointment on February 24, 1985 at 1300 hours. Detective Guerrero explained that at the same time Detective Hunter contacted Forensics secretary Geneva Hill and confirmed that the February 24, 1985, appointment for Barton was in fact accurate. Upon returning, Detective Hunter informed Detective Guerrero that the appointment had in fact been confirmed by Forensics. However, Detective Hunter indicated that he spoke with Forensics secretary Hill and was told by Hill that Barton's calling to make the appointment did not negate his PC290 requirement to show up in person and notify the Sheriff's Department of his change of address.

Based upon the totality of the information known to Detective Guerrero at that time, Detective Guerrero believed probable cause was present to believe that Garrett Barton had violated the 290 PC reporting requirements. Based upon this knowledge, Detective Guerrero decided to add an additional charge on Garrett Barton's existing booking for the indecent exposure PC 314.

When asked, Detective Guerrero stated that he did not understand at the time, that the Sheriff's Department policies, procedures and practices for 290 PC processing was such that it was impossible for Garrett Barton to have complied with the five working day requirement.

Subsequent to the submission of his arrest report, Detective Guerrero contacted the housing authority to obtain additional information regarding Garrett Barton's change of address. Detective Guerrero learned that Barton was evicted from his old address (the one listed on his 290 PC registrant card) on January 28, 1985. Garrett Barton then moved into his current Carpinteria address on January 29, 1985.

Of note, Detective Guerrero intended to insure the District Attorney was made aware of these specific dates, as well as the apparent holes within the Sheriff's Department policies, procedures and practices with regard to processing 290 registrant changes.

Interview of Detective Marvin Hunter

Report prepared by Sergeant Ralph Reyes

Date/ Time: Wednesday, January 22, 1985, at 0947 hours
Location: Sheriff's Headquarters - Professional Standards Unit
Persons involved: Detective Marvin Hunter
Sergeant Ralph Reyes

Prior to our beginning the interview, Detective Hunter reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was recorded with the knowledge of all persons involved.

Of note, this document is not a chronology of the interview with Detective Hunter. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was digitally recorded with the knowledge of all persons present. The recording, as a verbatim account of this interview, is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

Detective Hunter described that in conducting the investigation of the indecent exposure documented under case number 85-2136, Detective Guerrero had determined that probable cause was present to believe that Garrett Barton violated a felony and as such, could arrest under the auspices of 836 PC. Detective Guerrero learned Garrett Barton was scheduled to be in court on February 10, 1985. As this was a controlled location where they new they could contact Barton, it was decided they would do so at this location and arrest him for the felony violation of PC314.

Once at the courthouse, Detective Guerrero made contact with the bailiff and court personnel informing him of his intent to arrest Barton. While the court proceedings were underway, Detective Guerrero remained within the court room while Detective Hunter went into and waited in the foyer between the court room and the main courthouse hallway. Barton's case was heard first and upon its conclusion Barton was allowed to leave the court room. Once Barton exited the court room and walked into the foyer, Detective Hunter contacted him and asked him to wait. At the same time, Detective Guerrero walked into the Foyer, identified himself and informed Barton that he was being placed under arrest. Detective Guerrero then handcuffed Barton in utilizing standard non-critical incident handcuffing techniques. The handcuffing procedure was completed without incident or notable issues. Barton was then walked to Detective Guerrero and Detective Hunter's vehicle, which was parked on the street, adjacent to the District Attorney's Office. During the walk from the court room foyer to the car, Barton did not make mention of being in pain, nor that he felt his handcuffs were improperly applied.

Once at the detective vehicle, Detective Guerrero searched Barton in preparation for the transport. At this time, Barton made mention of believing his handcuffs were too tight. Detective Hunter specifically observed Detective Guerrero to have readjusted the handcuffs to ensure proper positioning and tension on Barton's wrists. Detective Hunter believed Detective Guerrero loosened the handcuffs a couple notches. Detective Hunter

described that the handcuffs were loosened enough to allow as much room as was safely possible, without allowing so much space that Barton could slip his hands through the handcuffs. Barton was then transported to the Sheriff's Headquarters Detective Bureau without further incident. Barton did not make any further mention of the handcuffs being too tight or of being in any pain as a result of the handcuffs.

I then moved on the portion of Barton's complaint wherein he claimed the Detectives were verbally abusive during the interview. I informed Detective Hunter that I had reviewed the entirety of the DVD recording of the interview. I asked Detective Hunter if there was any interviewing and/or significant conversation between the detectives and Barton which was not documented within the recorded interview. Detective Hunter stated there was not. *Of note, in reviewing the interview recording, I observed no actions or verbiage on the part of either detective which would be objectively consistent with the claims made by Barton.*

With regard to Barton's claim that Detective Hunter was making statements and/or acting in a manner that lead Barton to believe that Hunter was going to assault him, Detective Hunter stated that he did no such thing. Detective Hunter explained that he did not make any statements, nor engage in any actions that could be reasonably interpreted as his preparing to assault Barton. Hunter stated that there was no occasion during the interview in which Detective Guerrero had to calm him down, or motion for him to sit down. Detective Hunter did not believe there was any reasonable basis for Barton's allegations.

We then addressed the 290 registrant reporting requirement violation allegation. Detective Hunter recalled that Barton had in fact claimed to have made an appointment to come in to the Sheriff's Department and comply with the change of address requirements on February 24, 1985. While Detective Guerrero remained with Garrett Barton, Detective Hunter contacted Forensics Secretary Geneva Hill and inquired as to whether or not Barton had an appointment for February 24, 1985. Detective Hunter explained that Forensics Secretary Hill confirmed that Barton did in fact have this appointment.

Detective Hunter asked Forensics secretary Hill if Barton's having called to make the appointment negated his requirement to show up in person at the Sheriff's Department and notify the Sheriff's Department of his change of address. Forensics secretary Hill told Detective Hunter that the making of the appointment did not negate and/or fulfill the PC290 requirement to show up in person and notify the Sheriff's Department of the change of address.

Detective Hunter returned to the CID interview room and informed Detective Guerrero about the information he learned in speaking with Forensics secretary Hill. Based upon the totality of circumstances Detective Guerrero believed that Garrett Barton was in violation of his PC290 reporting requirements. Based upon this information, Detective Guerrero elected to add the PC290 violation as a charge on the jail booking form. Barton was then walked over to the Jail and booked into the jail without incident.

When asked, Detective Hunter indicated that neither he nor Detective Guerrero understood that it was not possible for Barton to have complied with the PC290 reporting requirements, due to the current state of Sheriff's Department policy, procedures and practices with regard to processing PC290 registrants.

Of note, Detective Hunter indicated that both he and Detective Guerrero would ensure that the District Attorney was made aware of the issues with regard to the Sheriff's Department policies, procedures and practices regarding the processing of PC290 registrants and its relevance to Garrett Barton's charges.

Interview of Garrett Barton

Report prepared by Sergeant Ralph Reyes

Date/ Time: Monday, January 20, 1985, at 1000 hours
Location: Sheriff's Headquarters - Professional Standards Unit
Persons involved: Garrett Barton
Detective Linda Hyatt
Sergeant Ralph Reyes

Garrett Barton was interviewed as a result of his submitting a Citizen Complaint which formed the basis for this Administrative Investigation. The information contained within the Citizens Complaint was disjointed and lacked sufficient detail to convey the basis for Mr. Barton's allegations. Because of this it was necessary to conduct an interview with Barton in order to obtain additional information and to place this information into an overall perspective. I contacted Barton via telephone the previous week and an appointment was made for Barton to be interviewed in person at the Professional Standards Unit.

At the very onset of the interview with Mr. Barton, he was informed that our contact was being recorded, as was common practice for all Professional Standards Unit interviews. Mr. Barton did not express an objection to the recording of the interview.

Of note, this document is not a chronology of the interview with Garrett Barton. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was digitally recorded with the knowledge of all persons present. The recording, as a verbatim account of this interview, is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

I then began to break the various aspects of Mr. Barton's complaint into logical groupings and asked questions in order to obtain additional information regarding the various topics. The first topic that was discussed was Barton's arrest at the Santa Barbara Superior Court by Detective Guerrero and Detective Hunter. I pointed out that within the complaint Barton claimed he was arrested in an "unfeeling", "rough" and "harsh" manner. I asked Barton to specifically describe the actions and circumstances that lead to Barton making these claims. Barton stated that the Detectives came into the court room and contacted him in an unfeeling manner and handcuffed him, applying the handcuffs too tightly. I asked Barton to explain what he meant by the Detectives being "unfeeling". Barton went on to state that the Detectives arrested him right in front of the judge. Barton stated that his attorney told him that the Detectives did not have any right to contact and arrest him in court, as they did... in an, "Unfeeling...rough manner..." I asked Barton if by the use of the word rough, he meant the verbiage that was used or the physical interaction of the Detectives with Barton. Barton stated that he was referring to the physical interaction between the detectives and himself. I asked Barton if the detectives threw him around, to which Barton replied they did not. I asked Barton if the detectives twisted on his arms. Barton stated that the Detectives put his hands behind his back and put his hands in the handcuffing position and applied the handcuffs too tightly. I asked Barton if the Detectives pushed or

shoved him around. Barton stated they did not. However, Barton did state the detectives took hold of his arms and pulled him to where they wanted him to go. *Of note, his description of this process appeared to be nothing more than the standard procedure for leading an arrestee.*

I then asked Barton if by writing the statement about the “unfeeling” and “harsh” manner in which he was contacted and arrested in the Superior Court was based upon his belief that the detectives should not have contacted and arrested him under these circumstances. Barton responded that it wasn’t just his assertion, but that his attorney’s told him it was very unprofessional of the detectives to contact and arrest Barton in this manner. Barton believed his attorney was going to write the Sheriff’s Office a letter stating as much.

I then asked him if the basis for his claim that the Detectives were “rough” was that they placed his arms behind his back and handcuffed him and that he believed the handcuffs were applied to too tightly. Barton confirmed this and went on to state that he not only believed the handcuffs were too tight but they were in fact too tight. Barton went on to state that the handcuffs cut-off the feeling to his hands.

Barton again stated he did not believe the manner in which he was contacted and arrested was professional. I then asked Barton what he would have expected of the Detectives in this circumstance. Barton stated that he would have expected the Detectives to have waited until he had exited the court room and then contacted him and informed him of the reason he was being arrested, then handcuff Barton in a manner that allowed him to move his wrist and move his hands.

I moved the topic of discussion to the portion of Barton’s complaint wherein he discussed the Detectives interview of him. I pointed out that within his complaint, he indicated the detectives were verbally abusive toward him and that at one time he was afraid one of the detectives was going to get out of the seat and physically assault him. Barton told me that he would like to amend that claim and stated that there were several occasions in which he felt one of the detectives was going to hit him. Barton then described that one of the detectives appeared to be in charge and conducting the interview (Detective Guerrero) and the other detective was seated against the opposite wall (Detective Hunter).

Barton stated that Detective Hunter could “barely restrain himself from getting out of the chair...one time he left the chair.” Barton went on to state that Detective Guerrero had to tell Detective Hunter to sit back down. Barton stated there were several occasions in which he told the Detectives to “cool it”.

I then indicated to Barton that there appeared to be two separate concerns that we needed to address regarding the Detectives interview of him, the verbal abuse and the detectives’ behaviors or actions that lead Barton to believe they were going to assault him. I asked Barton to explain what he meant by the Detectives being verbally abusive toward him and what the Detectives were doing that Barton believed was verbally abusive. Barton explained that he was basing this assertion upon his belief that “fifty percent” of his arrest being based upon his requirement to register pursuant to section PC290. Barton went on to state that he called the Sheriff’s Department prior to moving from his address of record and spoke with an employee who he believed was “Nadia” and made an appointment to

come-in and comply with the change of address requirements for his 290 registration (was actually determined to be Forensics secretary Geneva Hill). Barton claimed that he asked this Sheriff's employee if there was any way he could get in sooner and was told that no earlier appointments were available. Barton went on to state that Detectives Guerrero and Hunter knew that he made an appointment and still booked him for the violation of failing to register pursuant to PC290. Barton stated that this action cost him his job and his home. I asked Barton how the detectives knew that he had made the appointment. Barton went on to state that the detectives left the interview room, checked and confirmed that he had made the appointment.

I redirected Barton back to his claim of the Detectives being verbally abusive. Barton stated that he repeatedly told the detectives that he had not violated any laws. Barton stated that the detective/s, "Wouldn't go for it....wouldn't stand for it." Barton went on to state that the detective/s released the information about his arrest and that this had caused him significant problems in his life. Barton further stated that the detectives had no right to do this (release the information about his arrest). Barton stated that the detective/s knew for a fact that Barton was not able to get in any sooner to comply with the registration requirements.

I again redirected and asked Barton what he meant by being verbally abusive. At this point, Barton replied that the detective used a number of words that Barton would prefer that he had not. I asked Barton what words specifically he was referring to. Barton indicated that he did not like the fact that the detective made reference to his genitalia as being, "your junk". Or the detective's use of the phrase, "throwing it in somebody's face." Barton stated that he felt there was a bit of a dichotomy occurring within the interview and that Detective Hunter seemed upset or angry and Detective Guerrero was having to calm him down. Barton believed that Hunter seemed to be on some form of vendetta. At this point, I asked Barton if Detective Guerrero was having to repeatedly verbally, out loud, tell Detective Hunter to calm down. At this point, Barton stated that it was not a verbal direction but one that was motioned with his hand (Barton described it as being arm out, palm down and small up and down movements made with the hand).

I asked Barton if Detective Hunter was saying anything, (that would cause Guerrero to motion for him to calm down or back off). Barton stated that Hunter interjected several times during the interview. When asked, Barton stated he could not remember the exact statements by Hunter. I asked Barton what the general nature of Hunter's interjections consisted of. Barton only replied that Hunter would interject once in a while and say something. I then specifically asked Barton what Hunter was doing to cause Detective Guerrero to motion for Hunter to sit down or calm down. Barton replied that Hunter almost got out of his chair a couple of times.

Barton went on to state that Hunter, "Approached me and scared the shit out of me." I asked Barton how close Hunter came to Barton's person. Barton stated that he did not know and repeated that Hunter had gotten out of the chair. I asked Barton if Detective Hunter was saying anything as he approached Barton. Barton stated that Hunter had just mentioned something about Barton's "junk" just prior to getting out of his chair. I then asked Barton if Hunter said or did anything immediately prior to getting up that would reasonably lead an uninvolved third party observing this interview to have believed that Hunter was going to physically assault Barton. Barton reiterated that he could not

remember everything that was going on but did have a specific recollection of Hunter repeatedly using the terminology of “junk.”

Barton went on to state that when they were talking about Barton’s 290 registration requirements, Barton repeatedly told the detectives that he did not violate any laws relating to his registration requirement. Barton went on to state that he himself had asked Hunter to calm down. Barton believed that he made a statement to the affect of, “Why are you treating me like this,” and/or, “You scare me.” I went on to explain that I was asking if there were any statements and/or movements that objectively, to an uninvolved third party would be indicative of the detective preparing to physically assault Barton. I went on to explain that a detective merely standing up could be indicative of a preparation to leave the interview room and that I was looking for additional information that would substantiate the belief held by Barton. I informed Barton that I would review the recording of the interview between he and the detectives. I asked Barton what I should be looking for in the recording that would objectively substantiate his claim. Barton replied, “Overzealous...detective trying to make...has a vendetta for somebody.” Barton went on to state that Detective Hunter was the first person to arrest him approximately, 2 ½ years prior. Barton believed that Hunter seem to have, “Some of that left over.” Barton recalled Detective Hunter making statements such as, “Remember me.”

Barton offered that he could be watching the recording and providing commentary, as oppose to the method I was using in asking him to independently recollect what occurred. I informed Barton that I was purposely conducting the interview on this independent recollection basis, as I did not want his opinion and/or recollections to be influenced and/or molded around what was and was not present in the recording. I went on to explain that when it was all said and done, the recording would provide an objective means of evaluating the entirety of the situation. I further informed him that in conjunction with the objective recording, his point of view and the detective’s point of view could be evaluated and ultimately the reviewer would have the opportunity to determine the reasonableness on that basis.

Barton stated, “I perceived the idea of his not accepting the idea that I didn’t...and as far as the (unintelligible)...very unprofessional act.” Barton went on to express displeasure with his having been booked with a \$20,000 bail for something that Barton believed he did not do, in conjunction with allowing the news media to get a hold of the information about the arrest. Barton went on to state that he news media, “Was not very kind.” Barton went on to state that in his opinion, the detective went quite a bit further than he should have.

Barton pointed out that he had asked the Detectives on several occasions to be provided with an opportunity to take a lie examination with regard to the accusations being made against him (presumably the indecent exposure allegations). Barton stated that the detective did not answer his request and seemed to be avoiding any questions or suggestions that Barton was making.

I then pointed out the next relative topic of his complaint in which he stated the arrest was greatly exaggerated. In response, Barton told me he was referring to the same topic we had just discussed. He went on to explain that he was referring to the his being arrested for the failure to meet his 290 PC registrant requirements. Barton confirmed he was referring to his belief that the detectives knew he had previously made an appointment to meet his 290 registrant reporting requirements. Barton then stated that he subsequently

received a telephone call from “Nadia” on a Sunday. According to Barton, during this telephone call, “Nadia” told Barton that, “This is not right,” (referring to his having been booked for the PC290 violation). According to Barton, “Nadia” further stated she would speak with her Sergeant to get the charge dismissed. Barton stated that he received a second telephone call from “Nadia” on the following Sunday in which she stated that they were going to allow the District Attorney’s Office to, “Take care of this.” Barton believed this was a contradiction of words.

Barton claimed that when he came in to complete the registration requirement on February 24, 1985, he believed the person who handled the registration process (Geneva Hill) was “very unfriendly.”

I asked Barton if there was anything else that we had not discussed during the interview which he wanted the Office of Professional Standard to look into as part of this investigation. Barton stated that he could not think of anything. Barton went on to state that his primary concern was the circumstances of his being booked for the 290 PC registration requirement violations.

I then explained the administrative investigation process, as well as the difference and separation between the administrative investigation and the criminal investigation. I specifically informed Barton that nothing we had discussed during this interview would be provided to the District Attorney and that if Barton wanted such information considered as part of the criminal investigation, that he would have to provide it directly to the detective, the District Attorney’s Office and/or to provide it to his defense attorney.

Barton once again stated that the most suffering was the circumstances surrounding the 290 PC registration requirements. Barton stated that he wanted to see some sort of a follow-up to have occurred regarding that issue. Barton went on to state that this situation, “Cost me dearly,” and that it should not have occurred. Barton stated that his being arrested for this charge and the ensuing media release cost him his marriage, his house and his job. As Barton continued to focus on the 290 charge, I informed Barton that the primary charge and the basis for his arrest was not the 290 registration requirement violation, but the felony indecent exposure with priors violation. Barton avoided this comment (*something he did throughout the interview*) and reiterated that his arrest for the 290 and the release of information to the news media caused him his residence, his job and his wife. *Of interest, having reviewed the documentation and interview prior to speaking with Barton, I knew that he was not married and that the only woman consistently involved in his life was his caregiver who was married to a separate man in Lompoc.* Because of this knowledge, immediately after he claimed the loss of his marriage due to this matter, I asked Barton if in fact he was married. Barton back quickly peddled and changed his story claiming that he was, “Living with somebody.” Barton then claimed the woman was his “common law wife.” *More lies.*

In closing, Barton expressed that he felt that if the detectives did not harbor vindictiveness toward him, they would not have arrested him for the charges they did and released the

information to the media as was done. Barton then questioned why the detectives did not charge “Nadia” with having caused his failure to register pursuant to PC290.

Interview of Nadia Amada

Report prepared by Sergeant Ralph Reyes

Date/ Time: Thursday, January 22, 1985, at 1130 hours
Location: Sheriff's Headquarters - Professional Standards Unit
Persons involved: Extra-Help Nadia Amada
Sergeant Ralph Reyes

Nadia Amada is an Extra-Help (EXH) employee of the Santa Barbara County Sheriff's Office. In this EXH capacity, Amada coordinates and tracks compliance and enforcement matters relating to 290 PC sex registrants. During the interview with Garrett Barton, he made repeated references to having spoke with Nadia Amada.

Prior to our beginning the interview, Nadia Amada reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was not recorded as I was believed it would be short and not contain much relevant information.

Of note, this document is not a chronology of the interview with Nadia Amada. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed.

When asked, Nadia Amada recalled having had contact with Mr. Barton before and after his arrest on 2/10/1985. Specifically, Nadia Amada recalled that she received a telephonic message from Mr. Barton on or about February 2, 1985, in which he made reference to needing to change his address of record. During his initial message to Amada, Barton seemed to want to be able to fulfill his reporting requirement via the simple message to Ms. Amada. In response, Amada contacted Barton's telephone number between 2/2/1985, and 2/4/1985 to speak with him about the requirements. Mr. Barton did not answer the telephone and Amada left a voice message indicating that Mr. Barton needed to contact the Forensics Bureau and make an appointment to show up in person and fulfill the PC290 reporting requirements.

Several days after Barton was arrested (of note, Amada was unaware that he was arrested at the time she called), Amada contacted Barton to confirm that he had made an appointment to come-in and comply with his 290 PC reporting requirements. Amada recalled that during this telephone conversation, Barton informed her that he was arrested for the 290 violation and that he was not happy that he was charged with the 290 violation.

Of interest, when asked, Amada stated that she did not make any statement to Mr. Barton indicating that he should have not been arrested by the Detectives (as was claimed by Barton during his interview). Amada recalled that the only information she provided to Mr. Barton about this topic was that she could not make those types of determinations and that she would provide the information to the relevant supervisor. Subsequent to that telephone call, Amada contacted Barton again and informed him that she had provided the information to the Detective's Sergeant.

As an Extra-Help employee, Nadia Amada only works minimal hours in each pay-period.

Nadia Amada and I discussed various concerns, thought processes, and ideas with regard how our agency can improve the manner in which we process 290 PC registrants. This information was subsequently provided to the Forensics Bureau for consideration.

Review of Medical Questionnaire

Prepared by Det. Linda Hyatt

The Professional Standards Unit received a complaint from Garrett Barton dated, January 18, 1985, concerning his arrest and subsequent treatment in the jail. In his complaint, Barton claimed he was held and forced to stand for fifteen hours in a cell described as "4' x 5'". Barton further complained that he notified the jail nursing staff that he suffered from back and leg pain as a result of a "compound fracture" in his back and also a knee replacement. He stated that he told Jail nursing staff "three times" that he takes medication for Post Traumatic Stress Disorder (PTSD) and that the nursing staff "ignored" him. I obtained the medical questionnaire associated with Barton's receiving. I also obtained nurse's notes from her evaluation of Barton.

In Garrett Barton's medical questionnaire in which CD John Singer asked medical questions of Barton, Barton showed any signs of injury. Within the medical questionnaire, Barton indicated he suffers from "shortness of breath" and "chronic bronchitis." He also indicated he was hospitalized due to being his being, "Hit by a car three days ago." On the medical questionnaire, Nurse Sophia Rapozzo noted Barton's vital signs as:

Skin= warm and dry
Respirations= 20
Blood Pressure: 130/88
Pulse: 126

Also noted by Rapozzo was the mention by Barton that he has a history of Post Traumatic Stress Disorder resulting from military service in Vietnam. In Rapozzo's "Nursing Evaluation" of Barton, Sophia noted the above mentioned vital signs and also that Barton suffers from back pain as a result of a motor vehicle accident "2 1/2 weeks ago." She further noted that Barton was "A & O x4" (alert & oriented times four – person, place, time & situation). Sophia further noted "No complaints @ this time."

Interview of Geneva Hill

Report prepared by Sergeant Ralph Reyes

Date/ Time: Monday, January 27, 1985, at 0917 hours
Location: Sheriff's Headquarters - Professional Standards Unit
Persons involved: AOP Geneva Hill
Sergeant Ben Mendez (chosen representative)
Sergeant Ralph Reyes

During the course of this Administrative Investigation it was determined that AOP Hill had interactions with Garrett Barton and Detective Marvin Hunter and that these interactions were probably relevant to the allegations made by Mr. Barton.

Prior to our beginning the interview, Geneva Hill reviewed and signed the Administrative Investigation Admonishment and Confidentiality forms. This interview was recorded with the knowledge of all persons involved.

Of note, this document is not a chronology of the interview with Geneva Hill. The report documents the content of the interview, is arranged logically and where possible, by the chronology of the actual events discussed. The interview was digitally recorded with the knowledge of all persons present. The recording, as a verbatim account of this interview, is hereby incorporated into this administrative report by this reference and can be accessed via the CD/DVD media disk contained within the "MISC" section of this administrative file.

When asked, Geneva Hill indicated she was aware of Mr. Garrett Barton as a result of her duties as the Forensics secretary and Livescan operator for the Sheriff's Headquarters Building. In addition to her duties as the Forensics secretary, Hill is responsible for processing 290 PC registrations, along with other types of licensing. Hill occasion to interact with Mr. Barton prior to the January/February 1985 time frame, as a result of Barton being a 290 registrant and Hill needing to process his registration requirements.

I asked Hill if she had a specific recollection of speaking with Mr. Barton when he made the appointment to complete the change of address registration requirements in January/February 1985 (appointment was for February 24, 1985). Although Hill had no independent recollection of verbally interacting with Mr. Barton, she was certain that she was responsible for placing the scheduled appointment within the Headquarters Live Scan Outlook calendar. *Of note, the Systems and Technology Bureau was able to determine that this Outlook Calendar event (appointment) was made on January 2, 1985, at approximately 1502 hours.* Hill further stated that she could not remember if she offered Mr. Barton earlier appointment times/dates and Mr. Barton was not willing or able to make the earlier times and dates, or if this was the first available date/ time within the livescan schedule at the time. Hill explained that she pointed out this detail because her Live Scan appointment scheduling time frame was usually two weeks out and not three weeks out as would have been the case if the February 24, 1985, appointment had been made on February 3, 1985.




When asked, Geneva Hill explained that current Forensics/ Livescan policies, procedures and practices were such that she is unable to get Livescan appointments in earlier than approximately two weeks ahead of time. Under the current procedures and practices, she does not have any open or free time within her schedule in which she has no other duties and could thus handle any unexpected 290 PC Livescan walk-ins. Hill detailed that in addition to handling the 290 PC Livescan needs, she also handle general Livescan processes, Sheriff's licensing processes (including CCW and Taxi cabs) and was the sole Forensics secretary. Hill indicated that at the same basic time frame as which the matters at hand were occurring, one of the two Forensics secretaries was being transferred out of the unit due to budgetary constraints.

When asked, Hill recalled conversing with Detective Hunter on February 10, 1985, the date that detectives arrested Mr. Barton. Hill recalled confirming that Barton had made an appointment for February 24, 1985, and providing that information to Detective Hunter. Hill also recalled discussing with Detective Hunter that Mr. Barton having called in and made an appointment via telephone did not meet or negate the 290 PC requirements that Mr. Barton show up in person the Sheriff's Department within five working days to change his address of record. When asked, Hill could not recall if she and/or Detective Hunter engaged in any discussion regarding Sheriff's Department policies, procedures and practices being such that it was not possible for Mr. Barton to have complied with the five day reporting requirement.

Geneva Hill handled the appointment on February 24, 1985, with Mr. Barton. Mr. Barton was significantly rude and angry with our agency and directly with Hill during this interaction. Mr. Barton was utilizing profanity and speaking in an aggressive manner causing Hill to need the Watch Officer to step in and act as a go between with Mr. Barton.

Following the above reports included in the tabbed “Interviews & Reports” section, a “Documents” section should then incorporate any relevant CAD entries, booking records, Administrative Investigation admonishments, subject letters or other relevant materials.

Lastly, the following format could be used to record the pertinent digital data to a CD/DVD included in the “Miscellaneous” tab:

Name	Date modified	Type	Size
 CID Interview Video	7/26/1985 11:38 PM	File folder	
 Interview Recordings	7/26/1985 11:38 PM	File folder	
 Jail Video	7/26/1985 11:38 PM	File folder	



**Exemplar Investigation
EXAMPLE #3**

Santa Barbara County
Sheriff's Department

ADMINISTRATIVE
INVESTIGATION
Professional Standards Unit

THIS REPORT IS CONFIDENTIAL. ANY INDIVIDUAL NOT SPECIFICALLY AUTHORIZED IN WRITING BY THE SHERIFF WHO EXAMINES THIS REPORT, OR WHO REMOVES IT FOR ANY PURPOSE FROM THE PROFESSIONAL STANDARDS UNIT, WILL BE SUBJECT TO DEPARTMENTAL DISCIPLINE AND/OR CRIMINAL PROSECUTION. DO NOT PROCEED BEYOND THIS COVER SHEET UNLESS CONFIDENT OF YOUR AUTHORIZATION.

CONFIDENTIAL

**Professional Standards Unit
Case 2005-00**

Deputy James Green
Deputy David Gold

Conduct
Performance
Civil Service Rules Violation

Date of Occurrence:

January 1, 2005

Submitted By: Sergeant Joe Brown

**Professional Standards Unit
2005-00**

Table of Contents

Investigative Report

Conclusion

- Investigation Conclusion

Interviews & Reports

- Joseph Black (Red Rose Cab Company)
- SBPD Officer Stanley Teal
- SBPD Officer Melissa Silver
- Deputy David Gold
- Deputy James Green

Documents

- Memo from Sergeant Brown to Lieutenant White
- Subject Letters provided to Deputies Gold and Green
- Administrative Investigation Admonishments & Orders of Confidentiality

Miscellaneous

- One CD media disk containing all files related to this investigation
 - Interview recordings
 - Emails relating to the investigation
 - Scanned documents

Professional Standards Unit

Investigative Report 2005-00

While working as the Headquarters dayshift supervisor on January 1, 2005, I (Sergeant Joe Brown) received a telephone call request from the manager of a local taxicab company. The manager, Lisa Jones, claimed that during the early morning hours of January 1, 2005, one of her cab drivers was harassed by a person who repeatedly identified himself as being an off-duty deputy. This person was attempting to utilize the services of their taxicab company. Jones identified the deputy who called to request the cab as being "Jimmy Green", who was later positively identified as being Deputy James Green. Jones further indicated that Deputy Green had an acquaintance with him at the time. This person was later identified as Deputy David Gold. Jones did not request to file a formal citizen complaint, but wanted us to be aware of this behavior, as she felt it was unprofessional and did not reflect favorably upon the Sheriff's Office.

Later that same day, I received a call from Lieutenant Daniel Grey of the Santa Barbara Police Department. Lieutenant Grey informed me that during the early morning hours of January 1, 2005, two of his patrol officers, Officer Stanley Teal and Officer Melissa Silver, had contact with two off-duty deputies, who were very intoxicated at the time. Lieutenant Grey indicated the off-duty deputies were unruly with a taxicab driver, but became cooperative when the SBPD officers became involved. The deputies were released to a sober family member, who responded to the location to take them home. Lieutenant Gray indicated the off-duty deputies were identified as being Deputy James Green and Deputy David Gold. Lieutenant Gray believed the deputies' behavior reflected poorly upon the Sheriff's Office, particularly insofar as their overtly identifying themselves as Sheriff's deputies when arguing with the taxicab driver. This contact seemed to coincide with the above noted taxicab incident.

On the same date, I caused the appropriate notification of the SCOD chain of command regarding this matter. At the request of Lieutenant Walt White, I submitted a memorandum documenting this information.

Upon reviewing the circumstances, Commander Lisa Magenta requested that a Professional Standards Unit administrative investigation be completed in this matter. This request was approved by Undersheriff Ken Yellow, who directed that the administrative investigation be conducted within and by SCOD. The Professional Standards Unit was apprised of this authorized administrative investigation and assigned the matter Professional Standards case number 2005-00.

On January 7, 2005, Commander Magenta contacted and informed me that she was assigning this administrative investigation to me.

I interviewed Joseph Black, the cab driver who had contact with Green and Gold. He said the two were extremely intoxicated, obnoxious and unable to get into his cab. Black claimed the men were unable to tell him where they needed to go. During their contact with Black, Deputies Green and Gold repeatedly identified themselves as being deputies with the Santa Barbara County Sheriff's Office. After a few minutes of trying to deal with

the two, two SBPD police officers showed up and removed Deputies Green and Gold from his cab and told Black he could leave.

I interviewed Santa Barbara Police Officers Stanley Teal and Melissa Silver. Both said that Deputies Green and Gold were highly intoxicated, giving the cab driver a hard time and were overtly verbally identifying themselves as being off-duty deputies. When the SBPD officer contacted Deputies Green and Gold, they became very cooperative with the officers and upon request, properly identified themselves as off-duty deputies. Neither deputy possessed a firearm at the time. Officers Teal and Silver called Green's wife to the scene and allowed her to take the pair home.

I interviewed Deputies Green and Gold. Gold recalled little of the incident, but admitted to being very intoxicated that night. Green recalled the entire incident. Both described what they remembered and their descriptions were consistent with those of the taxicab driver and police officers. Both were extremely remorseful and wished the incident had never occurred.

SANTA BARBARA COUNTY SHERIFF'S DEPARTMENT
PROFESSIONAL STANDARDS UNIT
INVESTIGATIVE CONCLUSION
CASE # 2005-00

Date Received: Jan 1, 2005	Date Complete: Mar. 12, 2005	Date to Staff: Mar. 13, 2005
----------------------------	------------------------------	------------------------------

COMPLAINANT'S NAME: Executive Staff

COMPLAINANT'S ADDRESS: 4434 Calle Real, Santa Barbara

DATE OF INCIDENT: January 1, 2005	TIME: 0230 hours
-----------------------------------	------------------

LOCATION: Blue Iguana Nightclub, Santa Barbara CA

SUBJECT(S): Deputy David Gold & Deputy James Green

ASSIGNMENT: SCOD	RANK: Deputy
------------------	--------------

ALLEGATIONS (list each separately)	DISPOSITION
Lexipol §340.3.5(ab) - Conduct Unbecoming a Member of the Department	LEAVE
	THESE
	FIELDS
	BLANK

DISPOSITIONS

SUSTAINED. The investigation disclosed a preponderance of evidence to prove the allegation(s) made in the complaint.	
NOT SUSTAINED. The investigation failed to disclose a preponderance of evidence to prove or disprove the allegations(s) made in the complaint.	
UNFOUNDED. The investigation conclusively proved that the act(s) alleged did not occur, or the act(s) may have occurred but the individual employee(s) named in the complaint(s) was not involved.	
EXONERATED. The facts which provided the basis for the complaint or allegation did in fact occur, however, the investigation revealed that the actions were justified, lawful and proper.	

INVESTIGATOR: _____	DATE: _____
DIVISION COMMANDER: _____	DATE: _____

(Signature)

Interview with Joseph Black

On February 3, 2005 at approximately 1100 hours, I, Sgt, Michael Brown, interviewed Joseph Black, an employee of the Taxicab Company. The interview took place in the South Coast Patrol Office and was recorded. Because Mr. Black is not a department employee, he was not required to sign an Administrative Investigation Admonishment or an Order of Confidentiality.

Mr. Black recalled that he was dispatched at 0230 hours to pick up two people in front of the Blue Iguana on January 1, 2005. When he arrived at the nightclub, he was waved down by two male subjects (Deputies David Gold and James Green). He said that one of them said, "Hey, we are cops and we need a ride." I showed Mr. Black photos of Green and Gold and he positively identified them.

Mr. Black said that Green and Gold were stumbling and laughing. He described them as boisterous and quite obnoxious. He recalls Gold said that his taxi cab looked like a "jalopy," and Green laughed. Mr. Black asked them where they needed to go and Green said, "We need to find a toilet!" As Green said this, Gold bumped his head on the door frame of the cab as he tried to get in. This made Green angry and he began to shout at Mr. Black yelling that he was going to sue the cab company. Then Gold said, "Yeah, we should get a free ride!"

Mr. Black asked Gold if he was alright, and Gold fell into the back of the cab and was laughing hysterically. He did not get a response from Gold. Mr. Black said the two spent about five minutes trying to get seated in the cab. He estimates his entire contact with the two took approximately fifteen minutes. Mr. Black was never able to ascertain where the two wanted to go.

Mr. Black recalls that two uniformed police officers showed up and asked Green and Gold to step out of the cab. When they were out of the cab and asked to sit on the curb, he spoke briefly with one of the officers. He told the officer that the two had been noisy but that was it. He did relay to the officer that one of them had bumped his head on the cab. Mr. Black said he left the scene and responded to his next call for service.

He relayed the incident to his supervisor, Lisa Jones, when he returned to the cab company at the end of his shift

The interview concluded.

Interview with Officer Melissa Silver

On February 10, 2005 at approximately 2015 hours, I, Sgt, Michael Brown, interviewed Santa Barbara Police Officer Melissa Silver. The interview took place in the South Coast Patrol Office and was recorded. Because Officer Silver is not a department employee, she was not required to an Administrative Investigation Admonishment or an Order of Confidentiality.

Officer Silver remembered the incident with Deputies Green and Gold on January 27, 2005. I presented photos of Green and Gold to her and she positively identified them as the subjects she contacted that night. Officer Silver said that she and Officer Stanley Teal were working Downtown Santa Barbara on foot that evening. The two were dispatched to a call of subjects disturbing in front of the Blue Iguana nightclub.

Silver said that she and Teal found a taxicab in front of the night club with two intoxicated subjects inside. They ordered the two out of the cab and had them sit on the curb. She said they complied. The two officers then searched Green and Gold with their consent.

Silver said that Officer Teal had spoken to the cab driver. Silver asked Green and Gold to identify themselves and they each produced a Sheriff's Department identification card. They told Teal and Silver that they were not carrying weapons. Teal then examined one of the deputies for a minor bruise on his forehead. The injury did not require medical attention.

Officer Silver said that Deputy Green asked if his wife could come pick them up and the officers agreed to call her. Silver remembers that she responded quickly and the two were released to her. There was no further action by the officers other than making their shift commander aware of the contact.

The interview concluded.

Interview with Officer Stanley Teal

On February 7, 2005 at approximately 1300 hours, I, Sgt, Michael Brown, interviewed Santa Barbara Police Officer Stanley Teal. The interview took place in the South Coast Patrol Office and was recorded. Because Officer Teal is not a department employee, he was not required to sign an Administrative Investigation Admonishment or an Order of Confidentiality.

Officer Teal told me that he recalled the incident with Deputies James Green and David Gold on January 1, 2005. I showed him photos of Green and Gold and he positively identified them. Teal said that he and his partner, Officer Melissa Silver, were on foot patrol in Downtown Santa Barbara on that night. The two were dispatched to a call of a disturbance involving a taxicab in front of the Blue Iguana nightclub. He said that they were dispatched at 0230 hours and arrived at approximately 0245 hours. He believed the original call came from a citizen passer-by. They found the cab with two subjects in the back seat laughing and yelling at the driver.

Officer Teal said that he and Silver ordered the two out of the cab and asked them to sit on the curb. Officer Teal said he made contact with the driver who told him that the two were intoxicated and he (the driver) could not ascertain where they needed to go. Teal said that the driver also told him that one of the two had bumped his head on the door frame of the cab. Teal released the driver to go to his next fare.

Teal said that he asked the two if he could search them. They complied and both officers performed a "pat-down" search of Gold and Green. Officer Silver then asked them for identification. Officer Teal said that James Green identified themselves as Sheriff's Deputies. Teal said that Silver asked to see ID and both produced Sheriff's Department-issued identification cards. Teal said that neither was carrying any type of weapon.

Teal asked which one had bumped his head and Gold indicated he had. Teal checked the injury and found only a round red mark on Gold's forehead that seemed to be a minor bruise. He asked Gold if he wanted medical attention and Gold declined.

Teal said that their contact with Green and Gold was routine. He said they were cooperative and seemed to be embarrassed. Teal said that Deputy Green asked if he could call his wife to come pick them up. Teal and Silver agreed that this would be an adequate solution to the disturbance. Teal used his department cell phone to call his Dispatch Center to have Mrs. Green respond. She did so in approximately fifteen minutes. Green and Gold were released to her with no further action.

The interview concluded.

Interview with Deputy David Gold

On February 12, 2005 at approximately 0920 hours, I, Sgt, Michael Brown, interviewed Deputy David Gold. The interview took place in the South Coast Patrol Office and was tape recorded. Prior to the interview, Deputy Gold read and signed copies of both the Administrative Investigation Admonishment and an Order of Confidentiality.

I began the interview by reminding Deputy Gold that he had the right to representation for the interview. He declined to have a representative. I then questioned him about the incident at the Blue Iguana nightclub on January 1, 2005.

Deputy Gold told me that he and Deputy James Green were out celebrating Deputy Green finishing his probationary employment with the Sheriff's Department. He said they started with a dinner at a local steakhouse and then walked up and down State Street stopping in local pubs for alcoholic beverages. Gold told me, "I guess I had way too many gin and tonics." Gold said he recalls entering the Blue Iguana nightclub with Green sometime before midnight. Gold said he and Green had more alcoholic beverages at the nightclub and danced with some of the patrons.

Gold said he did not remember leaving the club. He said he recalls a police officer shining a flashlight in his face. I asked Gold if he recalled becoming unruly with the cab driver. Gold said he did not. I asked him if he recalled bumping his head on the door frame of the taxicab. He said he did not, but he remembers the police officer was checking his (Gold's) head with the flashlight. Gold told me, "Judging from the condition I was in, I wouldn't doubt that I did that." He said he vaguely remembers showing identification to one of the police officers.

Gold told me that the next thing he remembered clearly was getting into a car with Green and having Green's wife drive them back to Green's residence. He said he slept there that night and went home in the morning.

Gold said that he was deeply upset by his actions when he learned from Green the next day about what he (Gold) had done and said. He said he was remorseful and vowed that this type of incident would not happen again.

The interview concluded.

Interview with Deputy James Green

On February 14, 2005 at approximately 0920 hours, I, Sgt, Michael Brown, interviewed Deputy James Green. The interview took place in the South Coast Patrol Office and was recorded. Prior to the interview, Deputy Green read and signed copies of both an Administrative Investigation Admonishment and an Order of Confidentiality. Also present at the time of the interview was Green's representative, Attorney Phil Fuchsia.

I questioned Green about the incident at the Blue Iguana nightclub on January 1, 2005.

Green told me that Deputy Gold invited him out to celebrate his (Green's) successful completion of his probationary employment as a Deputy Sheriff. The two decided to visit a few bars on State Street. He recalls that they went to various clubs and had alcoholic beverages at each one. Green said, "We were pretty hammered."

Green said he remembers he and Gold went to the Blue Iguana at about midnight. The two danced with some of the female patrons and also drank more alcohol. Green believed he had consumed 6 – 8 alcoholic beverages prior to entering the Blue Iguana. At about 0230 hours, Green said he used his cell phone to call a cab to take the pair to Green's house. He explained that he lives very close to Downtown Santa Barbara.

Green told me that the two went out to wait for the cab at approximately 0230 hours. He said that he and Gold were "acting pretty silly" when the cab showed up. Green said, "We really gave the cab driver a hard time." He said they laughed at him and his cab and made fun of his personal appearance. He said he told the cab driver that his cab "smelled like crap." Green said that he saw Gold bump his head on the door frame of the cab as he tried to get in. He said, "Gold's best bet was to spill himself into the cab, but he was too drunk to do even that."

Green said that the two backed out of the cab in an effort to regroup all the while poking fun at the driver. Green said that Gold was upset that he had bumped his head and Gold became mad at the driver. Green said that he and Gold both demanded a free ride from the driver. At that time, two Santa Barbara police officers arrived and asked them to exit the vehicle.

The two officers placed Green and Gold on the sidewalk and then had them stand for "pat-down" searches. The two allowed the officers to search them. Green went on to say that they both identified themselves as Sheriff's Deputies to the officers. Green told me that he was very scared at that point.

Green said he tried to cooperate as much as possible with the officers. After an officer checked Gold for an injury to his forehead, Green asked if he could call his wife to come pick up the pair. One of the officers agreed to make the call and Green's wife responded to take custody of Green and Gold. Gold spent the night at Green's residence. He said the two discussed the incident the next morning.

Green said he was very sorry for his lack of good judgment. He said that he had already called the cab driver and apologized to him for his and Gold's behavior.

The interview concluded.

Date: January 1, 2005
To: Lieutenant Robert White
From: Sgt. Michael Brown
Subject: Complaint against Deputy James Green
and Deputy David Gold



On January 1, 2005, at approximately 1020 hours, I received a telephone call from a local Taxicab Company. The caller identified herself as Lisa Jones, the manager of the Taxicab Company. Ms. Jones said that two individuals were involved in an off-duty incident with one of her cab drivers and that one of the individuals claimed to be a deputy sheriff with our agency. The incident occurred on January 1, 2005, at approximately 0230 hours, in front of a night club in downtown Santa Barbara called The Blue Iguana.

Ms. Jones relayed that her driver, Joseph Black, was dispatched to pick up a man by the name of "Jimmy Green" and his friend (both were later identified as being Deputy James Green and Deputy David Gold). Upon arrival, Black found that the two men appeared extremely intoxicated, stumbling and slurring their words. Because of their apparent intoxication, Black had a difficult time understanding what the two men were saying. Ms. Jones said the two men were boisterous and unruly. As the two tried to get into the cab, one of the men tripped and bumped his head on the door frame of the car. When this happened, they became irate, yelled at the driver, and identified themselves as being deputies with the Santa Barbara County Sheriff's Office. The men claimed they were going to sue the cab company and demanded a free ride home.

A passer-by apparently called the Santa Barbara Police Department and SBPD officer arrived quickly. They contacted the two men and removed them from Black's taxicab. Black then left the location to go to his next assigned fare. Ms. Jones did not desire to file a formal citizen complaint, but wanted to pass this information on, in case the men were in fact employees of our agency. Ms. Jones felt that if they were deputies, the men's behavior did not reflect favorably upon the Sheriff's Office.

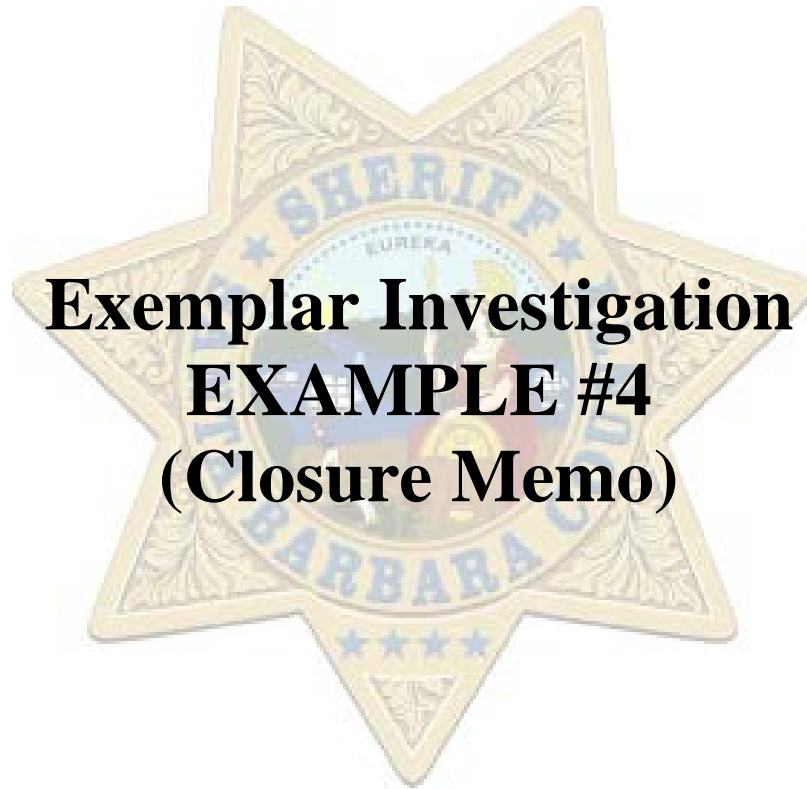
On January 1, 2005, at approximately 1300 hours, I received a telephone call from Lieutenant Daniel Grey of the Santa Barbara Police Department. Lieutenant Gray relayed to me that two of his officers had contact with two intoxicated off-duty deputies, earlier that morning, at approximately 0245 hours, in front of the Blue Iguana nightclub. He identified the deputies as James Green and David Gold. Lieutenant Gray indicated that both deputies were yelling and acting belligerently toward a taxicab driver in front of the nightclub. Both deputies were also overtly identifying themselves as being SBSO deputies when yelling at the taxicab driver. Lieutenant Gray indicated both deputies were cooperative with his officers when they arrived at the scene.

Deputies James Green and David Gold are both assigned to South County Patrol.

I verbally notified you of this information on January 1, 2005 and you requested that I author and submit this memorandum.

Any relevant CAD entries, booking records, department policies Administrative Investigation admonishments, subject letters or other relevant materials should be included in the “Documents” tab of the investigative file.

Additionally, the interview recordings should be recorded to a CD/DVD and retained within the “Miscellaneous” tab.



**Exemplar Investigation
EXAMPLE #4
(Closure Memo)**

Date: June 30, 2000
To: Professional Standards File 2000-100
From: Sergeant Daffy Duck
Subject: Closure of citizen's complaint submitted by George Jetson
CC: Undersheriff Mel Brooks



Upon reviewing the citizen's complaint submitted by George Jetson, I noted his complaint was based upon the following:

- Deputy Bugs Bunny was discourteous with him during their contacts.
- Deputy Bugs Bunny inappropriately directed that Jetson not have contact with his son, Elroy Jetson, who was arrested and in-custody at the Sheriff's Carpinteria Station.
- Deputy Bugs Bunny inappropriately/unlawfully denied Elroy Jetson access to a lawyer and a parent when his son requested such during an in-custody interview.

I reviewed the arrest report Authored by Deputy Bunny, 00-99452. According to the report, when Deputy Bunny read Elroy Jetson the Miranda Admonishment, Elroy invoked his constitutional rights, stating he wanted to speak with an attorney and his father. Elroy was then booked into Juvenile Hall without being further interviewed. Deputy Bunny's documented handling of Elroy appeared to be absolutely appropriate and within department policy and applicable law.

I contacted SCOD Commander Yosemite Sam, who was aware of the situation in question. Commander Sam stated that all information he received (from Lieutenant Elmer Fudd) indicated Deputy Bunny's handling of the case was appropriate, with the exception of his lack of courtesy during the direct interactions with George Jetson. Commander Sam pointed out the manner in which Deputy Bunny interacted with George Jetson would have inappropriately tipped our (and CWS) investigative hand with regard to possible unlawful/inappropriate behavior between George and his son, Elroy. Specifically, Deputy Bunny seemed to have lost control of his temper with George Jetson and repeatedly accused him of being a child abuser. To that point, CWS and Sheriff's investigators had not informed George Jetson that they were conducting a concurrent investigation, in which George was suspected of physically abusing Elroy Jetson. Commander Sam stated it was his understanding that Deputy Bunny recognized he erred in the manner in which he interacted with George. Commander Sam further informed me that Deputy Bunny's immediate supervisor, Sergeant Wiley Coyote, and Lieutenant Elmer Fudd appropriately addressed Deputy Bunny's discourtesy toward George Jetson and measures were taken to

prevent such discourtesy from occurring in the future. With regard to the handling of Elroy, Commander Sam indicated it was Child Welfare Services' (CWS) call to limit George's access to Elroy until they were able to determine there was not an underlying child welfare situation. With regard to Elroy requesting access to a lawyer and his father, the interview was stopped when he invoked his constitutional rights in this manner, and he was booked into juvenile hall.

I spoke with Lieutenant Elmer Fudd (Sergeant Wiley Coyote was also present) about the complaint. Lieutenant Fudd stated he was present at the Carpinteria Sheriff's Station when this incident occurred and witnessed the interactions between Deputy Bunny and Elroy Jetson. Lieutenant Fudd stated the handling of Elroy Jetson was consistent with all applicable department policies, as well as state/federal laws. Lieutenant Fudd further explained that Deputy Bunny's interactions with Elroy Jetson were audio recorded, providing objective evidence that relevant laws and department policy were followed. Lieutenant Fudd provided the Professional Standards Unit with a copy of this audio recording. Lieutenant Fudd stated Sergeant Coyote personally counseled Deputy Bunny about the discourtesy shown to George Jetson and took appropriate steps to prevent future occurrences (verbally confirmed by Sergeant Coyote who was also present).

Discourtesy is addressed in section 340.3.2(k) which states:

340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

(k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.

I briefed Undersheriff Mel Brooks regarding this complaint and the information I obtained through the CID chain of command. Undersheriff Brooks authorized the closure of this citizen complaint if no additional information was learned as result of personally speaking with George Jetson.

On 6/29/2000, I contacted George Jetson via telephone. I confirmed that he was not claiming Deputy Bunny attempted to interview his son after his son invoked his constitutional rights (request for attorney and father). George stated that in speaking with various persons involved in the criminal justice system, George believed he should have been given access to his son. George further opined that the manner in which his son was treated ultimately caused his son to break down and later provide a statement to a different detective, which George did not believe was appropriate.

I explained the applicable laws and procedures and that it appeared Deputy Bunny handled Elroy Jetson appropriately, within department policy and state/federal law. I further explained that Child Welfare Services was conducting a concurrent investigation into the welfare of Elroy and would appropriately seek to prevent contact between George and

Elroy until they determined the concerns were unfounded. As for the handling of Elroy causing him to later reinitiate contact with detectives, I explained this was a question to be ultimately vetted through the juvenile justice process, but the deputy's handling of Elroy was lawful and within department policy. George seemed to understand and was fairly receptive with the explanations I provided. However, George steadfastly believed Deputy Bunny was inappropriately discourteous with George during their contacts. I assured Jetson that if this were the case, we would appropriately address this policy issue with Deputy Bunny.

On 6/29/2010, I contacted Deputy Bunny and notified him of the citizen's complaint filed by George Jetson, as well as the allegations contained within Jetson's citizen complaint. I explained that all available information indicated Deputy Bunny acted appropriately and within department policy and applicable laws during his handling of Elroy Jetson. However, it appeared he did not display appropriate courtesy while interacting with George Jetson. I further explained that it appeared this discourtesy issue was appropriately addressed during a counseling session between Deputy Bunny and his immediate supervisor, Sergeant Wiley Coyote. I told Deputy Bunny that I was prepared and authorized to close the investigation into the complaint without interviewing him. I again explained that it was my understanding the discourtesy issue was appropriately addressed by Sergeant Coyote and steps were taken to prevent future occurrences. I told Deputy Bunny that if he disagreed with this finding, or wanted to offer information for inclusion, I would officially interview him. Deputy Bunny stated this was not necessary.

This citizen complaint investigation is closed.

The following items would be attached to this memorandum and maintained within the Professional Standards file for this citizen complaint investigation.

- A copy of the citizen complaint submitted by George Jetson
- A copy of the report authored by Deputy Bugs Bunny
- A copy of the audio recording of the interview attempt between Deputy Bunny and Elroy Jetson



Forms and Sample Documents

(These documents are also available in the “Admin” Word templates)

Santa Barbara County
Sheriff's Office

ADMINISTRATIVE INVESTIGATION

Office of Professional Standards

THIS REPORT IS CONFIDENTIAL. ANY INDIVIDUAL NOT SPECIFICALLY AUTHORIZED IN WRITING BY THE SHERIFF WHO EXAMINES THIS REPORT, OR WHO REMOVES IT FOR ANY PURPOSE FROM THE OFFICE OF PROFESSIONAL STANDARDS, WILL BE SUBJECT TO DEPARTMENTAL DISCIPLINE AND/OR CRIMINAL PROSECUTION. DO NOT PROCEED BEYOND THIS COVER SHEET UNLESS CONFIDENT OF YOUR AUTHORIZATION.

CONFIDENTIAL

**Office of Professional Standards
Investigation
#20__-__**

Subject: **Rank – First Name – Last Name**

Internally generated administrative investigation of....

or

Investigation of Citizen Complaint alleging that....

(above depends on how investigation was initiated)

List specific applicable sections of Lexipol / SBCCCR

Allegations were **SUSTAINED / NOT SUSTAINED /
UNFOUNDED / EXONERATED.**

Date of Occurrence: **Date incident occurred**

Submitted by:
Investigator's Rank – Name
Investigator's Division

Date:

To:

From:

Subject: Professional Standards Investigation #



You are the **subject** of an administrative investigation ordered by Executive Staff. The investigation focuses on violations of the following Lexipol Policy Manual Sections and Santa Barbara County Civil Service Rules:

SBSO Department Policy:

List all applicable sections of Lexipol or other written directives, including definitions.

Santa Barbara County Civil Service Rules:

1203 CAUSES FOR DISCIPLINARY ACTIONS:

List all applicable subsections of SBCCSR Rule 1203, or other applicable rules.

This investigation stems from Provide a brief but detailed summary of the allegations. Sufficient information to provide the subject with the "nature of the investigation" must be provided.

Provide a date/time/location of the interview. You do have the right to have legal representation of your choice during this interview.

Sincerely,

Name, Rank
Division

Date:

To:

From:

Subject: Professional Standards Interview

CC:



Rank – Name,

You are a **witness only** in a current administrative investigation. It is important that I speak with you as soon as possible. Please call me at [phone number], Monday through Friday 0700 to 1700.

Again, you are only a witness in this investigation, ***you are not a subject.***

This investigation concerns: (Briefly state the incident in question.)

If you have any questions, please call or e-mail me.

Rank, Name

Bureau

Contact phone number

Email address

ORDER OF CONFIDENTIALITY

The Professional Standards Investigator is legally considered to be the superior officer to everyone involved in a Professional Standards Investigation. The investigator acts as a direct representative of the Sheriff when they are so assigned.

I, _____, give you a direct order to not discuss this case, your involvement in this case or otherwise cause this case to be discussed with anyone who is a potential witness or subject in this investigation, unless such communication is specifically permitted by law. If you have any question as to whether or not you are permitted to speak with specific individuals, you are encouraged to contact your legal representative and/ or the Office of Professional Standards for guidance. **(This order does not include the representative of your choice or your legal representative if you are the subject of the investigation.)**

If you violate this order, you will be subject to immediate disciplinary action for insubordination. That discipline can lead to termination.

Investigator

Date

I fully understand the order I have just received. I understand that I am not to discuss this Professional Standards Investigation with anyone, **other than as specified above**. I also understand that if I violate this order I can be disciplined for a charge of insubordination, violation of a direct order by a superior officer, and my employment with the Santa Barbara County Sheriff's Department can be terminated.

I understand and promise to comply with this order.

Print Name

Date

Signature



**SHERIFF'S OFFICE
Santa Barbara County**

Administrative Investigation Admonishment

Professional Standards Investigations shall be initiated upon the order of the Sheriff. All such investigations shall be conducted in an impartial and objective manner. The purpose of the investigation is to disclose and report all facts relevant to the matter, whether or not such facts may be favorable or unfavorable to the individual concerned.

Professional Standards Investigators act as the direct representative of the Sheriff when they are so assigned. All members of this Department are to be fully cooperative and impartial when asked for information concerning Professional Standards Investigations. You are ordered to truthfully and completely answer all questions related to your employment, on-duty or off-duty conduct, and the operation of the Department that may be asked of you. Failure to comply with this order is cause for discipline up to, and including, termination from the Department.

I have read this Administrative Investigation Admonishment in its entirety. I fully understand the provisions of the order, and agree to comply.

Signature

Print Name

Date

Witness

Date

LYBARGER ADMONISHMENT

Due to the nature of this administrative investigation, Government Code Section 3303(h) requires me to advise you of your constitutional rights. Therefore, it is important that you understand that criminally:

- You have the right to remain silent.
- Anything you say may be used against you in a court of law.
- You have the right to an attorney before and during questioning.
- If you cannot afford an attorney, one will be appointed for you before questioning, if you wish.

MIRANDA WAIVER

Do you understand each of these rights I have explained to you?

Yes _____ No _____

With these rights in mind do you wish to speak with me now?

Yes _____ No _____

LYBARGER WARNING

While you have a right to remain silent in a criminal investigation, you do not have the right to refuse to answer my questions administratively.

This is an administrative investigation. You are now ordered to answer all of my questions and to give a full, detailed and complete statement regarding your knowledge of or involvement in the matter now under investigation.

If you refuse to answer my questions, you can be charged with insubordination resulting in administrative discipline, up to and including termination. Any statement you make under the compulsion of the threat of disciplinary action is for administrative purposes only and cannot be used against you in any criminal proceedings.

IF YOU HAVE ANY QUESTIONS REGARDING YOUR RIGHTS, ASK THEM NOW.

Employee Signature

Date

Witness Signature

Date

SANTA BARBARA COUNTY SHERIFF'S OFFICE

Office of Professional Standards
INVESTIGATIVE CONCLUSION

CASE # 20____ - ____

Date Received:	Date Complete:	Date to Staff:
----------------	----------------	----------------

COMPLAINANT'S NAME:
COMPLAINANT'S ADDRESS:

DATE OF INCIDENT:	TIME:
LOCATION: _____	
SUBJECT(S): _____	
ASSIGNMENT:	RANK:

ALLEGATIONS (list each separately)	DISPOSITION
	- SELECT ONE -
	- SELECT ONE -
	- SELECT ONE -
	- SELECT ONE -
	- SELECT ONE -
	- SELECT ONE -
	- SELECT ONE -
	- SELECT ONE -
	- SELECT ONE -
	- SELECT ONE -

DISPOSITIONS

SUSTAINED. The investigation disclosed a preponderance of evidence to prove the allegation(s) made in the complaint.
NOT SUSTAINED. The investigation failed to disclose a preponderance of evidence to prove or disprove the allegations(s) made in the complaint.
UNFOUNDED. The investigation conclusively proved that the act(s) alleged did not occur, or the act(s) may have occurred but the individual employee(s) named in the complaint(s) was not involved.
EXONERATED. The facts which provided the basis for the complaint or allegation did in fact occur, however, the investigation revealed that the actions were justified, lawful and proper.

INVESTIGATOR: _____ DATE: _____

DIVISION COMMANDER: _____ DATE: _____
 (Signature)

EXECUTIVE CASE REVIEW AND RECOMMENDATION

OFFICE OF PROFESSIONAL STANDARDS

CASE 20__ - __

DIVISION COMMANDER

DATE RECEIVED _____	DATE RELEASED _____
SIGNATURE: _____ DATE: _____	

CHIEF DEPUTY

DATE RECEIVED _____	DATE RELEASED _____
SIGNATURE: _____ DATE: _____	

UNDERSHERIFF

DATE RECEIVED _____	DATE RELEASED _____
SIGNATURE: _____ DATE: _____	

SHERIFF

DATE RECEIVED _____	DATE RELEASED _____
SIGNATURE: _____ DATE: _____	