

**FAIRFAX COUNTY SHERIFF'S OFFICE  
STANDARD OPERATING PROCEDURE**

**SOP NUMBER: 014a  
SUBJECT: SUPERVISORS HANDBOOK  
FOR THE CONDUCT OF ADMINISTRATIVE  
INVESTIGATIONS**

# **FAIRFAX COUNTY SHERIFF'S OFFICE**

## **SUPERVISORS HANDBOOK FOR THE CONDUCT OF ADMINISTRATIVE INVESTIGATIONS**



### **INTERNAL AFFAIRS**

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## FOREWORD

As members of the law enforcement community, Sheriff's Office Employees have an obligation to maintain the highest level of honesty and integrity. In addition, the chain of command is obligated to protect those under their command from false accusations. The Internal Affairs Office of this agency has the primary mission of conducting investigations to uncover facts related to possible misconduct by employees; however, the agency chain of command must also conduct administrative investigations which have not risen to a level where Internal Affairs involvement is necessary.

When an employee's judgment, actions, or discretion, become the subject of complaint, the Sheriff's Office must take the necessary steps to determine all relevant facts to clear the employee from the investigation or substantiate charges as facts dictate. This handbook is designed to assist supervisors with administrative investigations at this level.

The Fairfax County Sheriff's Office is an Equal Employment Opportunity Agency. The Sheriff's Office will not tolerate, condone, or allow any type of Harassment, Retaliation, Intimidation or Hostile Work Environment by employees, whether sworn, civilian or volunteer, or by non-employees who conduct business with this agency.



**STACEY A. KINCAID  
SHERIFF**

## **DEFINITIONS**

**Administrative Investigation:** A non-criminal investigation conducted for the purposes of examining and documenting an incident in which an employee is suspected of misconduct, or, for the purposes of examining and documenting an incident which by Agency policy requires an internal investigation.

**Compelled Statement:** Any statement, written or oral, given by an employee in direct response to an order or directive, and which the employee's failure to provide constitutes grounds for punitive action. A compelled statement cannot be used against an employee in a criminal prosecution except as provided by law.

**Complaint:** An allegation of specific act(s) or omission(s) which relate to an employee's conduct, performance of duties, or fitness to hold office.

**Confidentiality:** An order not to discuss or exchange information related to an investigation with anyone.

**Day:** The term "day," as used herein, shall mean calendar day, exclusive of Saturday, Sunday, and holidays observed by the Sheriff's Office.

**Employee:** An individual who is legally employed by the County, is compensated through the County payroll, and is under the control of the Sheriff.

**Exonerated:** The incident complained of occurred, but the actions taken were lawful and proper.

**Initial Inquiry:** Actions taken by command or supervisory personnel to gather sufficient facts regarding a personnel incident to determine if an administrative investigation is warranted.

**Misconduct:** An act or omission by an employee which, if proven true, would normally result in some form of discipline or sanction. This would include:

- Commission of an unlawful act;
- Neglect of Duty;
- Violation of any agency policy, procedure, rule, regulation, or training procedure; or
- Conduct which may reflect unfavorably upon the employee or agency.

**Not Sustained:** Insufficient evidence exists to either prove or disprove the allegation.

**Incident:** An event involving a Sheriff's Office employee which may give rise to an administrative investigation, either because of alleged or observed misconduct, or, an event which requires administrative investigation as a matter of policy (e.g. use of deadly force).

**Preliminary Investigation:** Actions taken to gather and/or preserve physical evidence, witness statements, official records or other pertinent information which might otherwise be lost or unattainable through the passage of time.

**Relief From Duty:** An administrative action whereby an employee's official authority is suspended and the employee is temporarily relieved from performing the duties of their position.

**Sustained:** The allegation is supported by a preponderance of the evidence. Only findings in this category will be included in an employee's personnel file.

**Unfounded:** The allegation is false.

## **DUTIES AND RESPONSIBILITIES**

The following is a brief overview of the primary responsibilities of various participants in the Agencies' administrative investigative process. It is incumbent upon each person in the process to ensure that all applicable Standard Operating Procedures and administrative investigation procedures are followed from initial recognition of a possible violation to the conclusion of the investigative process. The specific duties of each supervisor and branch chief/division commander are outlined in subsequent sections of this manual.

### **First Line and Investigating Supervisors**

Supervisors are responsible for taking immediate action to intervene when misconduct is observed or reported. The supervisor also is responsible for conducting an initial inquiry and for notifying the appropriate chain of command regarding suspected violations. When assigned an administrative investigation, the supervisor is responsible for ensuring that a detailed and complete examination of all aspects of the incident is conducted and properly recorded.

### **Internal Affairs Investigator**

Internal Affairs investigator is responsible for conducting initial inquiries and administrative investigations of assigned incidents, for notifying the appropriate chain of command regarding suspected violations, and for preparing a detailed and complete investigation report of all aspects of the incident. In addition, sworn personnel assigned to Internal Affairs are authorized to relieve from duty any sworn employee, regardless of rank, when necessary in the course of an administrative investigation.

### **Branch Chief**

The branch chief shall verify that all necessary preliminary investigative activities are initiated upon the report of an allegation of misconduct and is responsible for notifying the division commander and the Internal Affairs section. The branch chief is responsible for ensuring that an investigation under his/her control is conducted in accordance with all Standard Operating Procedures and related policies.

During the course of an investigation, the branch chief is responsible for monitoring the progress of the investigation and directing additional investigative steps as required. The branch chief is responsible for keeping the division commander advised of the status of the investigations, and for obtaining additional investigative support when needed.

### **Division Commander**

The division commander is responsible for ensuring that branch chiefs are properly supervising on going administrative investigations, giving necessary direction when needed, and keeping the chief deputy and Internal Affairs informed of the status of the investigation.

### **Internal Affairs Supervisor**

The supervisor of Internal Affairs shall be responsible for monitoring the progress of all investigations. The supervisor provides briefings on administrative investigations to the Sheriff on a regular basis. When requested, the supervisor provides support for other administrative investigations being conducted outside Internal Affairs.

## **COMPLAINT MANAGEMENT**

### **Receipt of Agency Complaints**

The Agency accepts complaints against any of its employees and shall investigate all such complaints to an appropriate disposition. A complaint can originate from an external or internal source:

1. An individual aggrieved person (adult or juvenile);
2. A third party;
3. An anonymous source;
4. A governmental agency;

5. A media report;
6. Any member of the Agency;
7. Upon notice of a civil claim;
8. Upon notice of a complaint filed with the U.S. Department of Justice, EEOC or similar investigative agency.

A complaint may be made to the Agency in person, by telephone, email, or by letter. Employees should not attempt to discourage, interfere with, or delay an individual from making a complaint. All employees, regardless of rank or position, are expected to be responsive and courteous in accepting complaints.

Complainants do not have to:

1. Appear in person.
2. Go to Internal Affairs Section or the employee's duty station.
3. Make another trip to file a complaint.
4. Have the employee's name or other specific identification.
5. Complete a Citizen's Complaint Form (SO 28).
6. Swear under oath to the truthfulness of their complaint.
7. Agree to participate in certain investigative procedures.

If the complainant makes initial contact with a non-supervisory employee, the person receiving the complaint shall notify the on-duty supervisor. If a supervisor is available within a reasonable period of time, he or she should speak with the complainant and assume control of the complaint process, regardless of the accused employee's shift or duty assignment. If a supervisor is not available, sufficient information should be obtained from the complainant for a follow-up contact by the on-duty supervisor (either in person or by telephone) at the earliest opportunity.

### **Initial Inquiry**

Often information is received which suggests the possibility of employee misconduct and the need for an administrative investigation. This information may originate from a wide variety of sources, as noted in the preceding section. Obviously, information concerning employee actions originating from these sources does not always result in an administrative investigation. However, these personnel incidents must be evaluated by supervisory or command personnel to determine the appropriate actions to be taken. The process by which this evaluation is conducted shall be referred to as the initial inquiry.

All allegations shall be initially reviewed by a sergeant or above. This initial inquiry is conducted to evaluate the incident and determine the need for further investigation. If the initial inquiry is conducted as a result of a report made by an individual, a telephone or personal interview should be conducted with that person. The receiving supervisor may discuss the incident in general terms with the complainant if it appears that an explanation of Agency policy, procedures or law will resolve the complainant's concerns. If the initial inquiry is being conducted as a result of an incident personally observed by the command or supervisory employee, care should be taken to ensure that all relevant facts and information are obtained.

Supervisors should remain objective at all times; a complaint may be as simple as a misunderstanding or as serious as a criminal violation. At a minimum, the following information should be gathered at this stage:

1. an account of the incident
2. the identity of the complaining party
3. all relevant information about the incident that is immediately available. This includes witnesses' names and accounts, the locations of events, and the existence and location of any evidence.
4. any information that would corroborate the incident.

In the case of a complaint, the supervisor should ensure that the information obtained is as complete as possible, documented, and organized for future use, if needed. The supervisor may use personal notes (if legible) or may elect to prepare a file memorandum or transmittal memorandum addressed to branch chief and Internal Affairs.

The initial inquiry is generally intended to be brief in duration and is conducted for the purpose of making one of the following decisions:

1. The incident has been explained to the satisfaction of the reporting party and does not constitute any reasonable suspicion of misconduct by any employee of the Fairfax County Sheriff's Office.
2. The incident has not been explained to the satisfaction of the reporting party and a complaint has been filed with the Agency. An administrative investigation shall be conducted of all such incidents.
3. The incident does constitute a reasonable suspicion of misconduct by an employee of the Fairfax County Sheriff's Office. An administrative investigation shall be conducted of all such incidents. Should the incident give rise to a reasonable suspicion of a criminal violation of law by an employee of the Fairfax County Sheriff's Office, the procedures established in [SOP 014 - Internal Affairs](#), Internal Investigations, Section XI, Criminal Investigations of Sheriff's Office Employees, shall be initiated.

As in criminal law, reasonable suspicion is a significantly lesser standard of proof than probable cause. It is not a certainty or probability of misconduct; it is a suspicion of misconduct.

4. The incident does not constitute any reasonable suspicion of misconduct by any employee of the Fairfax County Sheriff's Office; however, the nature of the incident merits investigation for the purpose of documenting all relevant facts. Matters so investigated shall include, but not be limited to, uses of force which result in injuries requiring medical treatment, accidental injuries to prisoners or prisoner's death, and firearms discharges resulting in injury to any person. An investigation shall be conducted in accordance with the procedures established for those incidents.

If in the opinion of the receiving supervisor an administrative investigation is necessary, the supervisor shall make any notifications required. In addition, the supervisor must assess what preliminary investigation actions are required (see following section), and ensure that steps are taken to complete them.

If the incident is determined to be an unusual situation or an incident requiring investigation by the Internal Affairs, the supervisor should immediately notify their branch chief for appropriate guidance or approval to refer the case to the Internal Affairs. The supervisor should also seek guidance on what preliminary investigation steps, if any, should be undertaken and by whom.

Sometimes citizens contact the Sheriff's Office to voice suspicions about an officer's conduct or motivations, but are reluctant or afraid to file a formal complaint. When these suspicions relate to significant constitutional or liability issues, or issues affecting the perception and reputation of the Agency, it is important to conduct a thorough initial inquiry and to document the findings. If the investigating supervisor develops a reasonable suspicion of misconduct, an administrative investigation should be initiated. If the investigating supervisor determines that the employee's conduct was lawful and proper, those findings must be reported as well. To facilitate this reporting, [the Report of Citizen Inquiry/Complaint Form](#) (SO 30, see Appendix) has been created.

The Report of Citizen Inquiry/Complaint Form (SO 30) is to document citizen inquiries or complaints regarding the following issues:

1. Corruption.
2. Neglect of duty.
3. Domestic violence.
4. Unlawful detention or arrest.
5. Unlawful search or seizure.
6. Excessive force.
7. Discrimination.
8. Harassment.
9. Rude or unprofessional language or conduct.

The Report of Citizen Inquiry / Complaint Form (SO 30) is to be used when:

1. a citizen alleges a violation of law, regulation or Standard Operating Procedures; **and**
2. the incident has been explained to the citizen's satisfaction, **or**, the citizen is unsatisfied with the explanation, but has not filed a formal complaint; **and**
3. the facts of the incident do not provide a reasonable suspicion of misconduct which requires an administrative investigation.

An initial inquiry into such incidents may reveal one or more minor performance issues which do not warrant a full administrative investigation and discipline, but which should be brought to the attention of the employee for correction. The supervisor shall discuss the issue(s) with the employee and may document the counseling session on an Oral Counseling form. Upon completion, the Report of Citizen Inquiry/Complaint Form (SO 30) shall be forwarded to the supervisor's branch chief for approval and Internal Affairs.

Report of Citizen Inquiry/Complaint Forms which allege only rude or unprofessional conduct shall be filed at the supervisor's level in the employee's personnel file and retained for at least 12 months. At the time of the employee's annual performance evaluation, the employee's supervisor should review the personnel folder and destroy any SO 30 forms which are not a part of a subsequent disciplinary action.

All SO 30 reports shall be forwarded to the Internal Affairs through the chain of command for tracking purposes.

#### **Preliminary Investigation**

The purpose of the preliminary investigation is two-fold: to obtain the basic information on the incident and the persons involved for follow-up by the investigating supervisor; and, to identify and preserve any evidence which might be lost, destroyed or altered by the passage of time. A thorough preliminary investigation is the foundation of a solid administrative investigation. Whenever possible, the following actions should be taken during the preliminary investigation phase:

1. Obtain complete information about the complainant: name, address, phone numbers, date of birth, social security number
2. Determine the exact date, time, and location of the incident
3. Obtain any information on actual or possible witnesses
4. Conduct an interview with the complainant to obtain a complete chronology of the incident, beginning prior to the initial contact and concluding at the present time. The supervisor should take detailed notes and, if possible, obtain a taped statement of facts from the complainant. If the complainant appears to be under the influence of alcohol or other substances, that fact should be noted. If a Citizens Complaint Form (SO 28) has not already been submitted by the complainant, the supervisor should make an effort to obtain one at this time.

5. Obtain a signed Medical Release Form from the victim(s) (See Appendix)
6. Determine the location of any evidence and take the necessary steps to preserve it.
7. Obtain photographs to preserve transitory evidence such as:
  - a. alleged injuries (visible or not).
  - b. alleged damage to property (visible or not).
  - c. photographs of officers involved (injured or not) to document their appearance at the time of the incident.

NOTE: If necessary, the assistance of Internal Affairs or other specialized units may be requested.

8. Obtain all records (or request the preservation of those records) relating to the event to include:
  - a. CAD data (unit history, event history, message traffic) if related to civil process/ transportation.
  - b. voice data (telephone and radio communications tapes).
  - c. criminal history checks on all parties.
  - d. prior complaints by source.
  - e. medical treatment records.
  - f. ADC booking and confinement, classification records.
  - g. copies of all reports, notes, summonses.

The timely collection of information is important because some of the evidence relating to an incident will only be available during certain stages of the investigation. It is common knowledge that memories will fade with time, evidence will cease to exist, and that time will otherwise erode the ability to collect valuable evidence. With these factors in mind, supervisors should attempt to identify and collect all known evidence as soon as reasonably possible.

#### **Withdrawal of Complaints or Discontinuance of Investigations**

There may be instances in which a complainant wishes to discontinue the complaint process. In some cases, the actions of an employee have been reasonably explained to the complainant and there is no further need for an investigation. In other cases, the allegations have been determined to be false. When any of these factors occur, the investigating supervisor shall ensure that proper documentation of the circumstances surrounding the decision to cease an investigation occurs.

There may be instances where a complainant wishes to withdraw his or her complaint for a variety of reasons but there exists reasonable suspicion or probable cause that the allegation has some merit. When this circumstance is present, the investigating supervisor shall inform the complainant that the Agency is obligated to investigate all complainants of misconduct by its employees and that the investigation will continue.

### **Command Notifications**

The supervisor receiving allegations should ensure that all proper notifications have been made as the circumstances dictate. Unless the nature of an incident requiring an initial inquiry is of a serious nature or is required by Agency policy, notifications can usually be made the next business day. Incidents which are determined to be of a serious nature should result in immediate command notifications.

## **ADMINISTRATIVE PREPARATIONS**

### **Case Folder**

The investigating supervisor should create a case folder in which to organize and present the inquiry/investigation report and all related materials. The case folder should be divided into sections that allow easy access to field investigation reports, notes, diagrams, arrest records, medical records, documents, photographs, witness list and statements, personal history records, and other related items. Many supervisors will find it advantageous to use an Action Log (See Appendix) on which to record the dates and times the case was worked on as well as the activities conducted.

### **Analysis of Complaint**

Upon being assigned an inquiry/investigation, the supervisor should first conduct an analysis of the incident. It is imperative that the complaint analysis is conducted with an open mind. The complaint analysis is not a formal procedure and need not be written. It is not intended to be part of the administrative investigation file. It is designed to help the investigating supervisor clarify the issues and identify the actions to be taken to ensure a thorough investigation.

During the analysis of the complaint, the investigating supervisor should identify all allegations and make note of all actions or issues which raise reasonable suspicion. The investigating supervisor should identify issues to be addressed by the investigation, such as:

1. What is the date, time, and location of the event?
2. Was this an on-duty or off-duty event?
3. What is the duty status of all Agency personnel involved?
4. What are the possible allegations?
5. Have all the participants in the incident been fully identified (names, date of birth, social security numbers, phone numbers, addresses, etc.)?
6. What regulations or laws may be related to the allegations?
7. Is this a criminal matter or is there a reasonable belief that it might be a criminal matter?
8. Is this a relief of duty issue?
9. Have all notes related to this investigation (deputies, supervisors, etc.) been collected?
10. Have all relevant documents pertaining to this incident been identified and properly collected, such as: CAD data, medical records, criminal histories, DMV data, ADC paperwork, police reports, prior complaints, etc.?
11. Has all evidence been identified and properly collected?
12. Are any lab examinations or other evidentiary procedures necessary?
13. Is there a presence or absence of motive by any party to the incident?

14. What possible defenses might the complainant and the accused employee(s) raise?
15. Have any underlying issues been uncovered?

Following the case analysis, the investigating supervisor should prepare an investigative checklist and an interview list.

### **Investigative Strategy and Task List**

At this point it is strongly recommended that the investigating supervisor develop an investigative strategy and a task list (See Appendix). Even a relatively simple inquiry/investigation may require a number of investigative actions (conducting interviews, collecting documents and physical evidence). Like the case analysis, a formal written document is not required. However, a task list of the goals to be achieved, and the actions necessary to accomplish those goals, is useful in keeping the investigation focused, coordinating the various activities in progress, and ensuring that all tasks are completed. For convenience, the task list should be a part of the working case folder. Some strategy issues and tasks commonly listed include:

1. Determine if the initial contact was appropriate.
2. Determine who to question, in what order, and for what purpose. Determine what information is needed from each person and prepare questions; this will help ensure that no issues are overlooked in the midst of the interview.
3. Determine if any physical evidence exists, where it exists, and who will collect it.
4. Determine what reports or other documents have not yet been obtained.
5. Identify potential problems and discrepancies in the information already obtained and determine how these issues can be resolved.
6. Determine if specialized tests or equipment is needed and how those services will be obtained.
7. Determine what photographs, maps, diagrams or sketches are needed, and how these items will be obtained. If these will be used during interviews, allow time to obtain them when scheduling interviews.
8. Determine if other persons not present at the incident will be interviewed (e.g., the employee who received the initial complaint, other personnel who have had contact with the complainant, persons involved in prior incidents with the complainant, etc.).

Regardless of the form it takes, an investigative strategy is essential to the successful management of any significant initial inquiry/investigation. A task list will be very helpful; it should be reviewed frequently, evaluated for tasks completed and tasks remaining, and modified to meet the requirements of an evolving case. Once the investigative strategy has been developed, the supervisor is ready to schedule interviews and initiate other necessary actions.

### **Interview Scheduling**

The investigating supervisor should prepare a tentative schedule for interviewing each person involved in the incident, taking into consideration their work schedule and availability. (Some interviews may need to be conducted immediately; i.e., when the evidence is time sensitive, such as an employee accused of being intoxicated or a witness who will be leaving the area for an extended period.) The investigating supervisor should allow sufficient time to prepare questions in advance of the interview, conduct the interview, and prepare follow up notes of the interview. The following sequence of interviews has been found to be effective in most cases; however, it must be emphasized that each case is unique, and it may be advantageous to change the sequence for a particular set of circumstances:

1. the complainant.
2. the victim (if different than the complainant).
3. employee eyewitnesses to the incident.
4. citizen eyewitnesses to the incident.
5. other citizens and employees with useful information.
6. the accused employee(s).

Whenever possible, the supervisor should contact the person in advance and request an appointment for the interview. The investigating supervisor may suggest the witness come to the Sheriff's Office, but should be flexible and open to a request for a different location. Some witnesses will feel more comfortable in another location which affords more privacy from other agency employees. If a witness does not wish to come to the same location where an accused employee works, the supervisor may suggest another Agency facility or a neutral site such as the Governmental Center. The supervisor should estimate the time it will take to conduct the interview and inform the witness so that sufficient time is allocated.

As a matter of Agency policy, any questioning of the accused employee must take place at a reasonable time and place as designated by the investigating supervisor, preferably when the employee is on duty (either scheduled or adjusted). The interview should take place at the work site of the investigating supervisor or at the work site of the accused employee, unless circumstances dictate otherwise.

### **Document Checklist**

A document checklist is a useful tool to ensure that all necessary reports, memorandums and letters associated with a typical initial inquiry/investigation have been completed and copies included in the case file. (See Appendix)

### **Investigative Time Frame**

Initial inquiry should be completed within fourteen (14) work days. Administrative investigations should be completed within (30) thirty days or as soon as possible without undue delay. When it is evident that an investigation will involve an extensive amount of staff hours to complete, the investigating supervisor should request in writing the need for additional time. The request must be addressed to the Sheriff with a copy to Internal Affairs.

## **CONDUCTING THE FIELD INVESTIGATION**

### **Cases Involving Scenes**

If an incident involves a specific location, the investigating supervisor should personally visit the scene during daylight hours and during the exact time of the incident. A review of the scene will afford the investigating supervisor a sense of familiarity with the setting in which the alleged incident took place. While at the scene, the investigating supervisor should conduct a follow-up canvass for the purpose of locating additional witnesses and evidence. Other factors to note at the scene might include natural light conditions, artificial light sources, sight line obstructions, noise conditions or other factors which may have affected the incident and the witnesses' perceptions of it.

Whenever possible, photographs of the scene should be obtained (if they will aid in the understanding of the incident). Likewise, diagrams and maps may be useful not only to the reviewer, but may aid the investigating supervisor in conducting interviews.

### **Conduct of Complainant / Witness Interviews**

The interview is the most important aspect of an initial inquiry/investigation, and objectivity is the most important element in the conduct of interviews. In addition to the complainant, other people interviewed should include:

1. actual eyewitnesses.
2. persons who, through other senses (hearing, smell, touch), can relate significant information about an incident.
3. persons who, by virtue of prior knowledge or subsequent information, can contribute significant information about an incident.

The investigating supervisor should make every reasonable effort to ensure that all witnesses to an incident are located, fully identified, and interviewed. In addition to obtaining all available information, this is very important for the purpose of ruling out “ghost witnesses” who may be presented later as eyewitnesses to the incident.

Prior to the complainant/witness interview, the investigating supervisor should prepare a list of questions to be asked. This ensures that all issues and subject areas are covered, and enables the supervisor to structure the flow of the interview. The following is a list of factors generally addressed during the interview:

1. the specific details of each allegation.
2. the identity of each person involved and their specific role or participation.
3. inconsistencies with the physical evidence (see note).
4. any underlying motives affecting their account (see note).
5. clarification of any differences with prior statements or accounts of the witness' participation by other witnesses (see note).

**NOTE:** The investigating supervisor may choose not to address some discrepancies during the initial interview but wait until further information is obtained before confronting a complainant/witness with discrepancies in a follow up interview.

Numbering the questions may assist in referencing the responses to the relevant question. In addition, the supervisor may wish to prepare several blank pages of the notepad with headings (name of interviewee, date, page number, etc.) This will allow the supervisor to focus more attention on the interviewee's demeanor and responses than on the mechanics of note taking.

Upon meeting the complainant/witness, the investigating supervisor should spend a little time explaining the initial inquiry/investigation process, stressing the impartiality demanded of the supervisor and the safeguards afforded by the command review process. The supervisor may wish to begin by obtaining biographical data about the witness and then transition into events leading up to the incident, the incident itself, and finally, any actions or observations since the incident.

The investigating supervisor conducting the interview should attempt to determine **exactly** what each witness observed, what actions were taken by the witness, and what information is known to the witness about the incident. The investigating supervisor should also attempt to determine the identity of any other witnesses known or observed by the interviewee. At the beginning of the interview, allow the person to explain the entire incident in their own words, without interruption. The supervisor can then proceed with the preplanned questions and revisit any issues which require further clarification. If, during the interview,

the witness displays uncharacteristic physical (non-verbal) behavior, the supervisor should note it as part of the investigation.

If the complainant or witnesses must describe locations or a progression of events in an area, it may be very useful to have the person draw a map or diagram of the incident scene (or use a prepared diagram) showing their location(s) during the critical event(s). Photographs of the scene may be helpful to refresh the witness' memory. The witness should place their initials and date on the diagram for future identification. In the case of a major administrative investigation, the supervisor may wish to revisit the scene with key witnesses to ensure accurate recollection and documentation of witness accounts.

Although a witness may report that they observed nothing, this fact can be critical to the investigation and should be documented. This witness may serve to disprove the allegation. A record of the witness' account may also serve to discredit or impeach the witness if they later change their statement. For these reasons, care should be taken to document the accounts of each person present at an incident, even if the witness claims to have no information to offer.

The investigating supervisor should also attempt to determine the accuracy, veracity and reliability of witnesses. Factors such as alcohol and drug use, criminal histories, sensory limitations (vision, hearing, etc.), biases and prejudices, and relationships with the parties involved may shade or distort a witnesses account of an incident. Careful and tactful questioning during the interview will ensure that this important information is obtained.

\* After the detailed interview is concluded, the investigating supervisor may wish to obtain a recorded statement from the complainant/witness. Recorded statements serve several useful purposes:

- a recorded, transcribed statement documents not only what a witness did and saw, but also documents what a witness did not see and did not do;
- a recorded, transcribed statement provides the reviewer with a firsthand account. Even a good interview summary may inadvertently omit, modify or distort facts;
- a recorded, transcribed statement can be used later during legal proceedings to refresh the witness' recollection of the incident and their observations, thus aiding in an accurate presentation of the facts.

If a citizen is reluctant to provide a recorded statement, explain that it is a safeguard for the witness by providing an accurate account in the witness' own words, and that a complete copy will be provided to the witness at no cost. If the witness refuses, the supervisor should ask permission to dictate a summary of the witness' account in the presence of the witness, or request a written statement. If the witness still refuses, that fact should be noted in the report.

To properly document a recorded statement, the investigating supervisor should use a standard introduction and closing. The inclusion of facts such as the date, time, location and purpose of the interview, the identity of persons present, the case number, the type of interview conducted (criminal or administrative), etc. helps ensure that the statement can withstand a legal challenge at some future time. A sample interview opening and closing is provided in [SOP 014 ATT. 10 - Sample Investigation](#).

The supervisor should avoid any breaks in the recording. If a break is necessary, the supervisor should note the time before stopping the interview. Upon restarting the recording, the time should again be noted, and an explanation of the need for the break put on the record.

\* NOTE: This procedure is only necessary for administrative investigation.

### **Conduct of Employee Interviews**

In addition to the guidelines for witness interviews, the investigating supervisor must be aware of additional considerations which may affect the conduct of employee interviews. Prior to an employee interview, the supervisor should read and be familiar with the following sections of [SOP 014 - Internal Affairs](#), Internal Investigations:

1. Section V, Administrative Procedures.
2. Section VI, Investigative Procedures.
3. Section VII, Relief of Duty.

The investigating supervisor should prepare any administrative documents necessary for the interview, including preparation of a Notice of Administrative Investigation (if an employee is to be the subject of the interview), and preparation of an Order of Confidentiality memorandum, if necessary. ([SOP 014 ATT. 1 - Sample Forms And Documents List](#))

The issuance of Confidentiality memorandums is required and will be used to maintain the integrity of the investigation.

The investigating supervisor may choose to conduct the interview as suggested in the previous section. If a recorded statement is to be taken, the supervisor should use a standard opening. A sample interview opening and closing for employee statements is provided in [SOP 014 ATT. 10 - Sample Investigation](#).

It is the policy of the Agency that employees are not permitted to bring recording devices to administrative investigation interviews. If the investigating supervisor suspects that an employee is attempting to surreptitiously record an interview, the supervisor should confront the issue directly.

Should it become apparent during an interview with the accused employee that the matter at hand involves some form of criminal activity, the investigating supervisor shall immediately stop the investigation and make the appropriate notifications in accordance with [SOP 014 - Internal Affairs](#) Internal Investigations, Section XI, Criminal Investigations of the Sheriff's Office Employees.

#### \*Recorded Interviews and Statements

##### **Under no circumstances should the supervisor relinquish custody of the original recording.**

By policy, the Sheriff's Office does not provide copies of recorded interviews to witnesses or employees. If requested, a printed copy of the transcribed interview will be provided as a record of the interview. Both the recording and the transcript are part of the official investigation and must be retained with the case folder.

Upon request, an employee may review the audio recording of his/her statement with the approval of the Sheriff, or Chief Deputy.

\* This procedure is only necessary for administrative investigations.

#### **Memorandum Reports in lieu of Employee Statements**

Department policy requires an employee statement in every initial inquiry/investigation. In some relatively minor cases, a memorandum report from the involved employee(s) will suffice in lieu of a recorded and transcribed statement. In more complex cases, it may also assist the investigating supervisor to have the employee prepare a memorandum report prior to any interviews. This may assist in focusing and directing the scope of the interview. Any memorandum report has the full effect of an oral response to an interview question; the employee is required to submit a full, accurate and truthful account.

#### **Right to Counsel: Complainants/Witnesses**

A complainant or witness may request the presence of an attorney or other legal representation during an interview. This should be permitted only when the complainant or witness refuses to cooperate without the presence of an attorney. In some circumstances this may be the only way to obtain an interview, and the investigating supervisor generally should not refuse the opportunity to speak with the complainant. The presence of counsel should be noted for the record.

### **Right to Counsel: Alleged Accused Employees**

The right to counsel is guaranteed to accused employees only at certain points in the discipline and appeal processes. Employees are not entitled to be represented by counsel during interviews arising from administrative investigations. Employees may be accompanied by counsel to an interview location, and may consult with counsel before and after the interview. The attorney, however, may not speak for the employee.

### **Insubordination**

An accused employee's efforts to unreasonably delay or disrupt the investigation should not be tolerated. If this occurs, remind the employee of the regulations requiring full cooperation, truthfulness and obedience to lawful orders. If necessary, order the employee to cooperate and advise that their failure to comply will be considered insubordination and grounds for immediate relief of duty.

To support a charge of Insubordination, the investigating supervisor must establish that:

1. the employee was given a direct order (orally or in writing) by a person with the lawful authority to do so;
2. the employee had knowledge of the specific rule or regulation which compels the employee to comply,
3. the employee had knowledge that failure to comply with the order would subject the employee to discipline,
4. the employee disobeyed the order.

All instances of insubordination should be reported immediately through the supervisor's chain of command.

### **Investigations Involving Sexual Misconduct, Discrimination or Harassment**

If an administrative investigation involves allegations of sexual misconduct, sexual harassment, or discrimination, the investigation will be conducted by the Department EEO/AA officer. In addition, the investigating supervisor must take special care to protect the reputations of all persons involved and to ensure the confidentiality of the employees and other witnesses involved in the investigation.

### **Investigations Involving Suspected Substance Abuse by Employees**

Should an initial inquiry reach a point in which an employee is suspected of substance abuse, the investigating supervisor shall immediately notify Internal Affairs. The Sheriff and Internal Affairs will then review the facts at hand in order to justify an employee's submission to the appropriate examination. This process will be in accordance with [SOP 014 - Internal Affairs](#), Internal Investigations and [SOP 016 - Standards Of Conduct](#), Standards of Conduct.

### **Hostile Conduct During Interviews**

The investigating supervisor should consider the potential for aggressive actions by a hostile interview subject. Where there is a potential for aggression, the supervisor should be equipped with a service weapon, handcuffs, and portable radio, and should consider the use of a second person to assist with the interview. This is particularly important if the interview is to be conducted in the witness' home or other unsecured location. The MPSTOC should be advised of the supervisor's location prior to the meeting.

If the hostile subject is an employee, the supervisor should request the employee to secure or surrender their weapon prior to the beginning of the interview. At times, an employee's behavior may become a threat to the employee's family, coworkers, and/or the employee's own person. If an employee begins to exhibit severe behavior or physical problems during an interview, the investigating supervisor should consider whether alternative courses of action might be advisable (relief of duty, fitness for duty examination, temporary reassignment, or seeking help from the Employee Assistance Program) before

returning the employee to their regular assignment. After making notifications through the chain of command, the investigating supervisor should document the interview and all subsequent events.

## **REPORTING THE INVESTIGATION**

After all investigative procedures have been completed, the investigating supervisor should conduct a final review of the case analysis, investigative strategy and task list to ensure that all relevant issues have been identified and all necessary actions taken. The supervisor must then detail all of the findings in an initial inquiry/administrative investigation report. The final report of an initial inquiry/administrative investigation is of equal importance as the previous investigative activities. The report must include all relevant information ascertained during the investigation; whether it tends to prove or disprove misconduct by an employee. The willful exclusion of relevant information, whether incriminating or exculpatory, is inexcusable and damages not only the current investigation but the future credibility of the supervisor, the Internal Affairs process, and the Sheriff's Office. Upon completion, the initial inquiry/investigation report is submitted to the supervisor's commander for review.

The initial inquiry/administrative investigation report should follow the standardized Agency format:

### **Heading**

The standard Fairfax County memorandum form and headings are used. All initial inquiry/administrative investigation reports are directed to the Sheriff, from the investigating supervisor. The file number is the case/tracking number assigned by the Internal Affairs. The subject of the memorandum is "Initial Inquiry/Investigation" and the reference line consists of the employee's rank, name, and EIN.

### **Synopsis**

The synopsis normally consists of one or two paragraphs which inform the reader of the general nature of the incident, when the incident occurred, how it was reported, what employees are involved, and the purpose of the investigation.

### **Findings**

This portion of the report is used to set forth the facts and other information ascertained through the investigative process. The facts must be presented in a clear and concise manner. The contents should include witness accounts, physical evidence, and investigative analysis. Opinions should be clearly identified as such and the source of the opinion should be clearly stated. Unless a good reason exists to the contrary, information should be presented in chronological order. The initial inquiry/administrative investigation should also describe the method(s) used to ascertain the facts presented in the report.

### **Conclusion**

In the conclusion portion of the report, the investigating supervisor should identify the appropriate legal and Agency standards and apply them to the facts of the case. The investigating supervisor must reach specific conclusions to concerning employees conduct. It must state the reasonable suspicion found to move to an administrative investigation. When report is result of an administrative investigation it must be classified with a finding as specified in [SOP 014 - Internal Affairs, Section VIII](#).