


<p>RABUN COUNTY SHERIFF'S OFFICE</p>  <p>General Order Number: 10.03</p>	<p>Date of Issue</p> <p><b>02/23/2016</b></p>	<p>Effective Date</p> <p><b>02/23/2016</b></p>	<p>Revision Date</p>
<p>Subject: <b>INTERNAL INVESTIGATIONS</b></p>	<p>Amends:</p>	<p>Rescinds:</p>	
<p>Index as: Internal Affairs, Internal Investigations, Office of Professional Standards</p>	<p>State Certification Standards:</p>		

**PURPOSE**

The purpose of this General Order is to prescribe the policies and procedures of the Rabun County Sheriff's Office in regards to conducting Internal Affairs Investigations

**STATEMENT OF POLICY**

It shall be the policy of the Rabun County Sheriff's Office that all allegations or complaints against the department and its employees be fully investigated to determine whether the allegations or complaints are valid or invalid and to take appropriate follow up actions.

**DISCUSSION**

All efforts must be taken to build a strong, positive relationship between the handling of information concerning allegations of employee misconduct and to provide the public with a fair and effective means to redress their legitimate grievances against the department or an individual employee. The purpose for having such procedures is to:

1. Identify practices requiring corrective measures through remedial training or policy revision;
2. Protect the reputation of individual employees, the department, and the public from false or misleading allegations; and

3. Identify employees who may be involved in illegal, unethical, or unprofessional conduct so that the appropriate corrective measures may be taken.

## DEFINITIONS

INTERNAL AFFAIRS INVESTIGATION — An administrative inquiry into allegations of employee or department misconduct to determine the facts, circumstances, and contributing factors so that appropriate corrective action may be taken.

MISCONDUCT — Employee actions that are either unlawful (malfeasance), dishonest, improper (misfeasance), or that represents a failure to do what duty requires be done (nonfeasance).

O.C.G.A. — The Official Code of Georgia Annotated

## I. PROCEDURES

### A. Citizen And Prisoner Complaints

1. All citizen and prisoner complaints pertaining to departmental policies or procedures or that allege employee misconduct will be documented and investigated by the department.
2. Complaints may be given in person, over the telephone, or in writing, from adults, juveniles, or persons in custody.
3. Anonymous complaints, or information from citizens who wish their names to be held in confidence, shall be accepted for investigation, if further information is obtained by the department that independently confirms or collaborates the complaint.
4. Citizen or prisoner complaints will be accepted by any supervisor of the department who is contacted for such assistance.
5. The supervisor shall document the complaint using the Citizen Complaint Form in accordance with procedures outlined in the Citizen Information General Order.
6. The Citizen Complaint Form will be promptly forwarded up the chain of command to the appropriate Division Commander for his/her review and necessary action. The original Citizen Complaint Form will be furnished to the Internal Affairs Officer within 72 hours of the complaint. The Division Commander will retain a copy of the Citizen Complaint Form for his records.
7. A supervisor may attempt to resolve a complaint by providing an explanation of departmental policies, procedures, or practices. Such attempts will be documented on the Citizen Complaint Report Form.

### B. Members of the public shall be made aware of the procedures to be followed in registering complaints against the department or its employees:

1. When an allegation of misconduct is made to a supervisor; and
2. During public presentations conducted by the Sheriff, Public Affairs Officer, or other departmental representatives.

### C. Types Of Employee Misconduct Allegations

1. **Criminal**: Information regarding the involvement in illegal behavior, such as bribery, theft, perjury, or narcotics violations.
2. **Excessive Force**: A complaint concerning the threatened or actual use of deadly or non-deadly force against a particular person.
3. **Illegal Arrest**: Information that the restraint of a person's liberty was improper or unjustified.
4. **Illegal Entry**: A complaint that entry into a building or onto property was improper, and/or that excessive force was used against property to gain entry.
5. **Illegal Search**: Information that the search of a person or property was improper, in violation of established procedures, or not justified.
6. **Harassment**: A charge that employees' actions were improperly predicated on or influenced by such factors as race, age, gender, or religious beliefs.
7. **Inappropriate Demeanor**: Information concerning an employee's bearing, gestures, language or other actions that may be offensive or of doubtful professional propriety or that may give the appearance of a conflict of interest, misuse of authority, or lack of jurisdiction.
8. **Serious Rule Violations**: A complaint such as disrespect toward a supervisor, drunkenness on duty, sleeping on duty, neglect of duty, false statements, failure to act when required to do so, or malingering.
9. **Minor Rule Violations**: A complaint such as untidiness or inappropriate wearing of the uniform, faulty driving, failure to comply with standard operating procedures, or unauthorized absence from work.

## II. DUTIES & RESPONSIBILITIES

- A. The Internal Affairs Officer has the primary staff responsibility to review and investigate all complaints against departmental employees whether initiated by a citizen or by the department.
  1. The Internal Affairs Officers reports directly to the Chief Deputy and is responsible for directing all internal investigations handled by the department. The Internal Affairs Officer has the authority to also report to the Sheriff if necessary.
  2. When the Internal Affairs Officer becomes aware of an allegation of misconduct, he or she shall make a determination whether to assume primary investigative responsibility for the case or to allow the supervisor to continue his/her investigation. A supervisor's investigation may be ordered stopped at any time by the Sheriff, Chief Deputy, or Internal Affairs Officer so that full investigative authority can be assumed by the Internal Affairs Officer or appropriate outside agency.

- B. Supervisors may investigate allegations of minor rule violations or inappropriate demeanor unless directed otherwise by the Internal Affairs Officer, Chief Deputy, or Sheriff.
  - 1. Discourtesy;
  - 2. Sleeping on duty;
  - 3. Disrespect towards citizens;
  - 4. Absence without leave;
  - 5. Neglect of duty; and
  - 6. Other acts of minor misconduct.
  
- C. When a supervisor becomes aware of any alleged act or omission on the part of an employee which may amount to misconduct, the supervisor will:
  - 1. Take action to prevent aggravation of the incident;
  - 2. Conduct an initial/preliminary investigation;
  - 3. Determine whether the allegation amounts to misconduct;
  - 4. Document the complaint using the Citizen Complaint Form; and
  - 5. Forward the Citizen Complain Form up the chain of command to the Division Commander.
  
- D. If it is determined that no misconduct was involved, the supervisor should attempt to resolve the complaint by providing an explanation of departmental policies, procedures, or established practices. If the citizen is dissatisfied with the explanation, the supervisor shall refer the matter up the chain of command to the Division Commander who shall contact the citizen to explain the department's position concerning the incident.
  
- E. The original copy of the Citizen Complaint Form will be forwarded to and reviewed by the Internal Affairs Officer once completed.
  
- F. Internal Affairs Officer Responsibilities
  - 1. Investigate those allegations of misconduct that are more serious than minor rule violations or inappropriate demeanor or any violation that may result in suspension without pay, salary reduction, demotion, or dismissal; involve the investigation of a criminal violation(s); or involve a complaint of employee harassment as prescribed by the Civil Service Rules of the Rabun County Government and the Rabun County Sheriff's Office Policies and Procedures Manual. All complaints investigated by the Internal Affairs Officer will be brought to the attention of the Chief Deputy and/or Sheriff within 72 hours of receipt. Notification will be made in written form either by formal memo or email. Serious violations include, but are not limited to the following:
    - a. Commission of a crime;
    - b. Corruption;
    - c. Excessive force/brutality;
    - d. Gross misconduct;
    - e. Firearms discharges other than training;
    - f. Insubordination;
    - g. Incidents involving domestic violence; and
    - h. Other acts of a serious nature.

2. Upon the receipt of a citizen's complaint, the Internal Affairs Officer shall contact the complainant and advise the person that the matter is under investigation, that they will receive periodic status reports, and that they shall receive written notification of the final disposition of the matter.
3. Maintain a record of each complaint received against the department or individual employees and the final disposition. Such records will be kept separate from other agency personnel and investigative reports and secured at all times. Such records are not releasable to the general public as long as the matter is under investigation. Ten days following completion, the information is subject to public disclosure when requested.
4. Ensure that Internal Investigation files will be retained for 20 years following the conclusion of the case.
5. Conduct a regular review of complaints to ascertain the need for changes in training, policy, or procedures.
6. Provide the Office of Professional Standards with any information indicating the need to revise departmental training.
7. Prepare a summary for the Annual Report of the complaints received and investigated and their final disposition. The report will be available to all agency employees through the Internal Affairs Office or Office of Professional Standards and will also be made available to the public by request to the Sheriff or designee.
8. Refer information involving misdemeanor allegations against departmental employees to the Criminal Investigations Division and felony allegations against employees to the Georgia Bureau of Investigations or other appropriate investigative agency and to the District Attorney's Office for appropriate action.

### **III. CONDUCT OF INTERNAL INVESTIGATIONS**

- A. All complaints received shall be documented on the Citizen Complaint Form and an investigation shall be initiated so long as the complaint contains sufficient factual information upon which to base further investigative action.
- B. Individuals who make allegations concerning excessive use or force shall be asked to provide written authorization for the release of their relevant medical records to the department.
- C. Complainants shall be informed by the Internal Affairs Officer of the legal consequences for filing false and malicious allegations against a law enforcement official in accordance with O.C.G.A. 16-10-20, 16-10-26, or 16-10-71.
- D. Internal investigations will be completed within 30 days of receipt. Additional time needed to properly complete the investigation, will be authorized on a case-by-case basis by the Internal Affairs Officer.

### **IV. RELIEF FROM DUTY**

Employees who are involved in the following may be placed on administrative duties and/or relieved from their normal duties as directed by the Sheriff or his designee(s) for a time period up to and including the end of the investigation:

- A. Use of deadly force resulting in death or injury;
- B. Use of non-deadly force resulting in death or serious physical injury;
- C. Any criminal violation; or
- D. Any serious rule violations when directed by the Chief Deputy or the Sheriff.

**Employees placed on administrative suspension as a result of involvement in a critical incident, will receive an evaluation to determine psychological fitness for duty, prior to resuming their normal job duties. This shall be directed by the Sheriff, or his designee(s).**

## V. CONCURRENT INVESTIGATIONS

- A. Unless otherwise directed by the Chief Deputy or Sheriff, the Internal Affairs Officer will conduct an investigation when an employee is being investigated by an outside law enforcement agency.
- B. The Internal Affairs Office will coordinate with the investigative agency to insure that his activities do not compromise or interfere with their investigation. The Internal Affairs Officer will only suspend his activities if it is determined that the criminal investigation may be compromised and only for as long as is reasonably necessary.
- C. All internal affairs activities will be conducted separately from those of other investigative agencies.
- D. The Internal Affairs Officer may furnish any information obtained as a result of his/her investigations to other law enforcement agencies EXCEPT for information, evidence, or statements obtained as a result of a "Garrity warning."
- E. Information obtained from other agencies may be used as deemed appropriate by the Internal Affairs Officer.

## VI. EMPLOYEE DUTIES AND RIGHTS DURING INTERNAL INVESTIGATIONS

- A. Scope Of Questioning During Interview
  - 1. When deemed necessary, prior to an interview conducted by the Internal Affairs Officer or his designee as directed by the Chief Deputy or Sheriff concerning allegations of criminal or administrative misconduct, the employee can either give a voluntary statement or will be given a proper "Garrity" warning.
  - 2. He/she can be required to answer all questions specifically, narrowly and directly related to the performance of his or her official duties;
  - 3. Refusal to comply with an order to answer such questions is a violation of departmental rules which may subject the employee to further discipline up to, and including dismissal; and

4. Any required self-incriminatory admission made during the interview may be used in subsequent administrative or civil proceedings, and shall not be used against the employee in future criminal proceedings (if obtained under a Garrity warning).

## **VII. SPECIAL EXAMINATIONS**

- A. An employee may request in a timely manner, an intoximeter, blood, urine, psychological, polygraph, or medical examination if it is believed that such measures would be beneficial to his or her defense. Also, the department may require such examination upon the direction of the Chief Deputy or Sheriff.
- B. An on-duty supervisor is required to direct an employee to submit to a breath, blood, or urine test when a level of inebriation or drug usage is suspected as the factor directly related to duty performance or operating a departmental vehicle.
- C. If an identification or photographic line-up is solely for administrative purposes, and criminal prosecution is not anticipated, an employee may be required to participate in the line-up or have his/her photograph taken.
- D. Property belonging to the department is subject to inspection when there is reasonable suspicion that evidence of work-related misconduct will be found therein. Such property includes, but is not limited to, vehicles, computers, desks, files, and storage lockers.
- E. In the event an employee is ordered to take a polygraph, the person making the original complaint must also agree to submit to a polygraph, but only if the individual is not a departmental employee. In such cases, the individual making the complaint must take the polygraph before the employee under suspicion.
- F. An employee may also be required to furnish a financial disclosure statement; however such statements must relate directly to the administrative investigation.

## **VIII. EMPLOYEE RIGHTS DURING AN INTERNAL INVESTIGATION**

- A. Prior to any interview conducted by or special examination directed by the Internal Affairs Officer, the employee under suspicion will be advised of the complaint. This notification will include a statement of the allegations and the employee's rights and responsibilities relative to the investigation and a verbal summary adequately listing the relevant facts.
- B. Whenever possible or practical, interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required. With the twenty-four hour a day shift work of the department, it will not always be possible to interview employees while on duty, therefore employees may have to be interviewed while in an off-duty status.
- C. Unless placed under arrest, an employee has the right to leave the interview at any time.
- D. Employees under investigation shall not be subjected to offensive language, nor threatened with transfer, dismissal, or disciplinary action during an interview. No promise or reward shall be made by the investigator as an inducement to answer questions.

- E. Employees under investigation or their supervisor may contact the Internal Affairs Officer to ascertain the status (on-going, completed, or forwarded to the Chief Deputy or Sheriff for appropriate action) of the investigation.

#### **IX. COMMAND ACTION**

- A. In those cases involving allegations of minor rule violations or inappropriate demeanor that are investigated by the immediate supervisor or Division Commander a written report will be prepared and submitted to the next higher commander in the chain of command for review. The reviewing commander may determine that further investigation is required and order such investigation.
- B. After the completion of all investigative activity, the final report will be forwarded to the Division Commander or Chief Deputy for review. This report will include the recommendations for disposition of the case along with the supporting evidence for the recommendations. Such recommendations for final disposition must be based upon a "conclusion of fact." A copy of the final report will be forwarded to the Internal Affairs Officer.
- C. In those instances when the complaint is sustained based upon a "conclusion of fact" and the Division Commander determines that adverse action be taken against the employee, the matter will be handled as prescribed by appropriate departmental directives.
- D. In all other internal investigations that are conducted by the Internal Affairs Officer, the final report of investigation, to include the findings for case disposition, along with the supporting evidence, will be submitted to the Chief Deputy or Sheriff for his review and necessary action.

#### **X. CHIEF DEPUTY AND/OR SHERIFF ACTIONS**

- A. Upon completion of his investigation, the Internal Affairs Officer will submit his findings and recommendations to the Chief Deputy and/or Sheriff as to whether a violation has been sustained according to the evidence.
- B. The Chief Deputy and/or Sheriff shall review the report and supporting documents and shall either return the case for further investigations, or shall, based upon a "conclusion of fact," give approval of the findings of the case as follows:
  - 1. Sustained: The evidence is sufficient to prove the allegations;
  - 2. Not sustained: The evidence is insufficient to either prove or disprove the allegations;
  - 3. Exonerated: The evidence shows that the incident occurred and was lawful or proper;
  - 4. Unfounded: The evidence shows that the allegation is false or not factual; or
  - 5. Policy failure: The evidence is sufficient to show that the incident occurred, but was a result of flawed policy or procedures.
- C. The Chief Deputy and/or Sheriff will notify the employee in writing of the recommended disposition of the case.



- D. In those instances when the matter is not sustained or is exonerated, unfounded, or is a policy failure no further action against the employee will be taken.
- E. When a failure of policy or procedure is determined, the Chief Deputy and/or Sheriff shall consult with the Office of Professional Standards and/or the Training Unit and direct that appropriate actions be taken to correct the failure.
- F. In those cases when the allegations of misconduct are sustained, the Chief Deputy and/or Sheriff shall determine the degree of severity, prepare a letter to the employee of proposed adverse action, and follow the actions prescribed by appropriate departmental directives.



By Order of the Sheriff: **Chad K. Nichols**  
Sheriff, Rabun County