



B. Complaint Defined:

A complaint is an allegation of misconduct committed by any person described under the definition of personnel.

C. Misconduct Defined:

1. Commission of a criminal offense.
2. Violation of department policies, rules, regulations, procedures, or orders.
3. Negligence in the performance of duty.
4. Conduct which reflects unfavorably upon the department or its personnel.

## PROCEDURE

A. Responsibility

The Sheriff's Office's responsibility is to ensure that such investigations are conducted in a prompt and timely manner conducive to good order and discipline while observing and protecting the rights of all employees.

B. Receiving Citizen Complaints

Citizen complaints shall be accepted by this office in any format. They may be taken in person, via telephone, writing, third party, or from an anonymous complainant. The purpose of this reporting system is to encourage citizens and department members to report their grievances through Sheriff's management. Only then can these complaints be documented, investigated, reviewed, and the appropriate action taken. Department members shall be impartial listeners, and avoid providing retorts or excuses for the complained party. Many complainants or inquiries may be satisfactorily resolved during this initial contact simply by using patience, understanding, compassion, and sympathy toward the complainant. Department members are encouraged to try and resolve minor issues that do not involve criminal misconduct, ethical violations, or serious misconduct of moral turpitude. Encouraging department members to attempt to resolve these minor transgressions gives the citizen an immediate resolution of their complaint.

1. Verification of Complaint:

- a. Department personnel who are initially contacted need to determine if the citizen is complaining about a department member. If it is determined that the complainant has a concern about a non-departmental member, then he/she shall be referred to the proper authority. Complaints against department members should be referred to the appropriate supervisor or the Sheriff's Secretary.

- b. Citizens who desire to initiate complaints should be encouraged, but not required to complete and sign the personnel complaint form personally. Completion of the personnel complaint form creates a permanent record of exactly what the citizen is concerned about, and what event generated the complaint. Putting the complaint in writing reduces the possibility of any misinterpretation on the part of the employee receiving the complaint from the citizen. The employee receiving this complaint, however, may find it necessary to prepare a complaint form for the complainant to sign. **Complaint forms should be date stamped and signed by the employee receiving them. The original complaint form will be forwarded, in envelopes marked confidential, to the Undersheriff and a copy to the Sheriff. This is confidential information and not to be shared other than for purposes of investigation and documentation.**
- c. In the event that a citizen makes a complaint by letter, telephone, or some other means and wishes to remain anonymous, then the employee receiving the complaint shall take as much information as possible during the initial contact. That information shall be placed into sealed envelopes marked "Confidential" and forwarded to the Sheriff and Undersheriff.
- d. Upon receipt of the information by the Undersheriff, he/she will make a discretionary determination regarding the investigation. The information received can reasonably be investigated without the identity of the complainant and if the information appears to possess some degree of credibility, then an investigation shall be conducted.
- e. There are times when complaints may be filed directly with the CEO's office and depending upon the nature of the complaint, the Sheriff will be notified and may direct the investigation.

2. Categories of Complaints:

The nature of a complaint against a departmental member shall fall into one of two categories:

- A. Informal Criticism Complaint - Informal Inquiry: An allegation involving minor transgressions which could include, but are not limited to, minor traffic violations, perceived rudeness, and perceived procedural errors on the part of a department member may be handled informally by bringing the matter to the attention of the chain of command of his or her immediate supervisor at the complainant's request. In choosing this process, the complainant agrees not to proceed with a formal misconduct complaint. Utilization of this process does not imply that the subject officer has, in fact, committed the transgression as described by the citizen complainant.

B. Misconduct/Policy Complaint - Formal: The allegation, if sustained, amounts to a violation of the law or department policies, procedures, rules, or regulations. This type of complaint may be initiated by the department or requested by the citizen.

3. Resolution of the Personnel Complaint - Informal inquiry:

Supervisors handling informal inquiries wherein the person requests no further action against a member of the department shall nevertheless be communicated in writing to the division commander. The department member resolving the issue will review all appropriate identifying information about the person and the facts involved in the incident causing the inquiry. Nothing in this section shall be construed as to prevent the reopening of the matter by the department for further investigation. Personnel assigned to handle the investigation are to be as thorough and as objective as possible. Once you have spoken to all parties as needed and have reached a conclusion, you are to submit to the Division Commander your findings in memo format. The Division Commander will use that information to take appropriate action against the affected employee(s) if needed, and will draft a formal letter to the citizen complainant advising minimally that the issue has been thoroughly looked into, and final disposition has been arrived. That formal letter, along with the memo from the initially assigned personnel, will be forwarded to the Undersheriff for final review and proper filing.

C. Documentation:

- 1) All misconduct complaints shall be documented regardless of type. Investigators' notes and materials developed during the initial contact shall be retained.
- 2) Interviews of formal complaints shall be tape-recorded when possible; however, this should only be done with the person's knowledge since these investigations are administrative in nature. When citizens decline to be tape-recorded or are unavailable for an interview, a brief written statement of the incident about which they are complaining is recommended. The alternative is to conduct the interview orally and compile detailed notes of that interview.
- 3) When appropriate and if possible, evidence shall be gathered during the initial receipt of the complaint. Photos shall be taken of injuries or damaged property. Medical releases shall also be obtained at this time which allow investigators access to copies of the complainant's medical reports. Occasionally a situation shall arise in which the complaining party has visible injuries, but is unable to come to the Sheriff's Office. The individual may be at home incapacitated, in the hospital, or in jail. In these situations, it may be necessary to go to the complainant as soon as practical to gather any photographs.

D. Investigative Procedures:

- 1) The administrative investigation of a department member's conduct shall be completed in a fair and impartial manner. If not, the organization may be criticized by the citizens as well as other governmental officials and department members.
- 2) When a formal misconduct complaint is determined to have some degree of credibility and factual basis by the Undersheriff, the investigation may be assigned to a supervisor for investigation. During this period, the investigating supervisor will report directly to the Undersheriff.
- 3) When a potential misconduct is discovered and not directly related to the original complaint, a new and separate Internal Affairs file shall be prepared and followed by an investigation.
- 4) The Undersheriff shall maintain a case assignment log documenting the date, assigned investigator, case number, subject officer's name, and date completed.
- 5) The Undersheriff shall immediately notify the Sheriff of all allegations of criminal conduct or serious misconduct by department members. Cases involving the allegation of criminal conduct shall first be investigated as criminal matters. Internal Affairs investigators may monitor these investigations and obtain copies of all criminal reports for use in an administrative investigation. For the integrity of the administrative process, it is important that protected information does not flow from Internal Affairs to the criminal investigation.

E. Investigative Report Format:

An Internal Affairs personnel complaint form shall be prepared. An investigation shall be reported utilizing the following reporting format. The investigation will be in memo format utilizing appropriate headings. Do not use crime report forms or crime report format. Minimally, the investigation will include the following:

1. Background information
2. Body of the investigation
3. Applicable authorities and laws
4. An analysis and conclusionary statement
5. Findings (if appropriate)
6. Recommendations (if appropriate)

F. Investigative Steps:

Internal Affairs investigators shall prioritize their tasks in order to conduct a thorough and timely investigation. These tasks usually fall into the steps listed below. Investigators shall remember that the legal civil standard is a preponderance of the evidence in administrative investigations:

1. Review the allegation. What rule or regulation or policy is-alleged to have been violated?
  2. Identify the need for further interviews. Are the interviews complete? Have witnesses been contacted? Should there be a canvas of a particular area to locate additional witnesses?
  3. Collect all relevant evidence, including photos, medical reports, police reports, radio tapes, schedules, disability reports, and sketches if needed.
  4. Obtain relevant background data, including criminal history, prior litigation, local records, and victim/witness file. Obtain relevant background data regarding the officer, including prior complaints, personnel file, evaluations, and prior discipline (if appropriate).
- G. Interview the involved department members. When the Internal Affairs investigator is prepared to interview the involved department member, an interview notice shall be completed and sent to the member.
1. Conducting the Administrative Interview:
    - a. Planned, formal interviews of the focused department member shall be tape-recorded. The recording device shall be kept in open view. The tapes shall be labeled and retained as part of this administrative investigation. If the department member is sworn or a custodial officer, he/she shall be advised of the rights afforded to him/her by the California Government Code Sections 3300 – 3311.
    - b. If there is a possibility that the department member's conduct is criminal in nature, he/she shall be advised of his/her rights pursuant to Miranda along with the administrative interview admonishment. Should the member choose to exercise his/her Miranda rights and remain silent, then the administrative interview admonishment shall be read.
    - c. When there is no alleged criminal conduct, the administrative interview admonishment shall be read.
  2. All administrative interviews shall utilize the following introductory format:
    - a. The investigator shall state the date, time, and location of the interview. Note that the interview is openly being tape-recorded;

- b. State who is conducting the interview and his or her current assignment;
  - c. Names of persons present during the interview;
  - d. State the purpose of the interview;
  - e. State the nature of the investigation;
  - f. Advise that the employee is required to answer all questions truthfully, honestly, and completely.
3. Representation at Interviews:
- a. The employee's representative is allowed to do more than just become a passive observer. However, the employee shall answer the investigator's questions, and may be disciplined for refusing to do so. Refusal to answer a question may be deemed as insubordination and discipline imposed up to termination.
  - b. Sworn department members, custodial officers, or their legal representatives frequently request copies of all notes or reports prior to this formal interview pursuant to Government Code §3303(f). The Internal Affairs investigator is allowed under this section to withhold information that the agency deems confidential. Generally, reports that are not deemed confidential would include crime reports of the incident, activity reports, and communication tapes if available. These items may aid in the employee's recall of the incident and provide for a more accurate statement.

H. All formal misconduct investigations shall be maintained in a case folder. This file shall be kept by the assigned investigator as long as the case remains open, and shall include the following items:

- 1. A case file number;
- 2. All original investigative reports and notes by the investigator;
- 3. All original documents and photographs;
- 4. All original administrative correspondence;
- 5. Case activity (noting the dates of each activity conducted by the investigator);
- 6. All tapes of formal interviews with the employee or witnesses.

These items shall be retained and safeguarded by the case investigator. The case file shall remain in Internal Affairs, and only copies of the investigation shall be distributed to the appropriate department and county personnel as required.

- I. Findings and recommendations involving formal misconduct/policy complaints shall be approved by the Sheriff or Undersheriff.
  1. Internal Affair finding(s) shall be recommended by the investigator involved in the case. The Sheriff or Undersheriff shall review the entire investigation and recommendation, and shall enter a final determination with regard to the allegations. The final finding(s) shall be one or more of the following:
    - a. Unfounded – the investigation conclusively proved that the act(s) complained of did not occur, or the member(s) named in the complaint were not involved in any alleged misconduct.
    - b. Exonerated – the act(s) which provided the basis for the complaint occurred; however, the investigation revealed that such acts were justified, lawful, and proper.
    - c. Not Sustained (inconclusive) – the investigation failed to clearly prove or disprove by preponderance of the evidence the allegations made in the complaint.
    - d. Sustained – the investigation disclosed sufficient evidence to prove the allegations made in the complaint.
    - e. Unfounded as frivolous – the complaint is totally and completely without merit or was made for the sole purpose of harassment pursuant to the provisions of Penal Code §832.5(c).
- J. Disciplinary Procedure:
  1. In all cases where it is in the interest of the department to place an employee on paid administrative leave, the affected employee's regularly assigned shift hours shall become Monday through Friday, 0800 hours to 1700 hours. The affected employee shall make himself/herself available during those regular business hours to the division commander or an assigned supervisor during the days of the paid administrative leave.
  2. Once approved by the Sheriff, disciplinary action shall proceed in a timely manner.
    - a. Informal discipline consisting of training, informal counseling, documented oral counseling, and letters of reprimand may be imposed immediately.
    - b. Formal discipline consisting of suspension, demotion, reduction of pay, disciplinary transfer, or termination requires due process of law. In the instances of formal discipline, this department shall follow the guidelines set forth in the California Government Code regarding due process for sworn and custodial officers, and the Nevada County Personnel Code starting with §17.3 for all other civilian employees.

3. Once the notice of proposed discipline has been prepared and served, the member shall be provided with a complete copy of the administrative investigation and proof of service.
4. After the administrative appeal process is completed, the final recommendation shall be approved by the Sheriff and an Order of Discipline shall be prepared and served to the involved department member. This Order of Discipline shall designate the level of discipline and when it will be imposed. **In all cases of formal discipline, there shall be a final review by both County Counsel and the Personnel Department prior to imposition.**
5. The affected member's chain of command shall be notified by the Sheriff or Undersheriff upon service of the Order of Discipline well in advance of any scheduled dates of suspension for the purpose of orderly staffing and planning.

K. Closing Complaints:

1. The Undersheriff shall notify the complainant by mail of the final disposition of the case within thirty (30) days of its conclusion. The complainant shall only be advised of the disposition of the case ("exonerated", "sustained", "not sustained", "unfounded" or "frivolous in nature").
2. The Undersheriff shall send a written notice to the affected member that the complaint is closed.

L. Disciplinary Actions Resulting from Investigation:

1. Formal oral reprimands or documented counseling letters shall be given to the employee by his/her supervisor or division manager within the employee's chain of command. Notation that such action has taken place shall be placed in the employee's personnel file or in the employee's quarterly evaluation file. This shall be removed by the division manager within one (1) year from the date of issuance providing there has not been any further disciplinary issues, and the employee receives at least a satisfactory or better annual evaluation.
2. Request for a written reprimand shall be based on an investigation completed either in accordance with the Internal Affairs investigation or through a formal process to be completed at the division commander's level.
3. A file with a draft of written reprimand shall be forwarded to the Undersheriff prior to delivery to the employee and placement in his/her personnel file.
4. Written reprimands shall be in accordance with Nevada County Personnel §17.3, et al., including the sealing of such written reprimand at the employee's request pursuant to Nevada County Personnel regulation.

5. When dismissal, suspension, demotion, reduction of pay, or disciplinary transfer is anticipated, the case including all investigative and supporting data shall be submitted to County Counsel by the Undersheriff for preparation of the necessary papers.
6. When discipline is in the form of dismissal, or the suspension of an employee is imminent or ordered, the affected employee shall surrender his/her departmental issued weapon, badges, identification cards, departmental keys, and/or CCW permit to his/her division commander or the Undersheriff.
7. In any case in which an employee is accused of a felony crime, and there is probable cause to believe that the crime may have been committed by the employee, or if there is a potential of a disciplinary action which could result in the suspension of peace officer's powers, the initial investigator, with the concurrence of the Undersheriff, shall confiscate the departmentally issued weapons, badges, department keys, and identification cards.
8. In cases of suspension, the weapon, badge, and identification card shall be retained by the Undersheriff to be returned to the employee upon his/her return to active duty.

M. Administrative Process:

1. Access to Internal Affairs records – only those members of the department authorized by the Sheriff shall be allowed access to Internal Affairs records. The following personnel are authorized to access the member's Internal Affairs records with the indicated limitations:
  - a. The focused employee of the Internal Affairs may review his/her own records by appointment with the secretary to the Sheriff or Undersheriff. The employee may prepare brief notes, but shall not be allowed to photocopy or remove any documentation from this file;
  - b. The employee's immediate supervisor(s) in the involved member's direct chain of command may review the subordinate's Internal Affairs file or record when such review pertains to a department function, goal, assignment or responsibility, and with the approval of the Sheriff or Undersheriff.
  - c. Outside requests to review a member's Internal Affairs records must be in accordance with California Penal Code Section 832.7 and/or California Evidence Code Sections 1043 and 1046, or pursuant to a Federal court order.
  - d. "As otherwise authorized by law."

N. Chemical Tests Pursuant to an Internal Affairs Investigation:

1. When appropriate, and in conformance with the Nevada County Personnel Code Drug Free Workplace Policy, as part of a misconduct investigation, Internal Affairs investigators can require a department employee to submit to a chemical test which would include, but not be limited to, breath, urine, or blood. Administrative chemical testing will be done in accordance with law and medical appropriateness. Refusal to cooperate will be considered insubordination and discipline imposed up to and including termination.
  - a. The breath may be utilized either through a P.A.S. device, or through the intoxilyzer at the main jail.
  - b. Two samples shall be taken if urine is requested. Witness the urine sample with the investigator or command officer of the same sex.
  - c. If the chemical test is blood, it may be drawn at a medical facility. Two samples shall be obtained.
2. Administrative chemical tests of urine and blood samples are not to be sent to the State Crime Laboratory. One sample is retained by the Internal Affairs investigator. The second sample shall be sent to the sheriff's contract laboratory. A written analysis will be requested from that contract laboratory explaining the test results. This report shall become part of the administrative investigation.

O. Fitness for Duty Evaluation:

When a department member has been relieved from duty for physical or psychological reasons, a fitness for duty evaluation may be conducted at the discretion of the Sheriff or Undersheriff.

1. The evaluation shall only be undertaken when there are severe job related psychological factors, or where there is an existing medical condition which renders an employee unable to perform the essential job functions of his/her work unit.
2. The evaluations are confidential medical information, and shall not become a part of any disciplinary file. The evaluation results shall be sent to the Office of Sheriff. The evaluation results report shall only include that the person is or is not able to perform the prescribed duties, and shall also indicate any limitations thereof.
3. In the event that a department member refuses to submit to a fitness for duty evaluation, the Sheriff or Undersheriff may officially order the department member to undergo the evaluation. A continued refusal may be treated as a violation of a direct order; and a disciplinary investigation may be instituted which may result in discipline being imposed, up to and including termination.

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**NEVADA COUNTY  
SHERIFF'S OFFICE**



**SHANNAN MOON  
SHERIFF/CORONER  
PUBLIC ADMINISTRATOR**

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RE: NOTICE OF ADMINISTRATIVE INVESTIGATION AND INTERVIEW

DATE: \_\_\_\_\_

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

An investigation of suspected misconduct by an employee or member of this department is being conducted. You have been identified as:

The employee suspected of misconduct. Employees accused or suspected of misconduct should be aware that subsequent investigation/testimony may be used against them in administrative proceedings and may be discoverable pursuant to the Evidence Code. Employees so accused or suspected are entitled to specific procedural rights under Government Code Section 3300 et seq., or pursuant to labor agreements between their bargaining unit and the county. These rights include a right to representation by a person of their choosing who is not involved in the same investigation either as a witness or suspect. If desired, it is the employee's responsibility to secure representation prior to the date and time of the scheduled interrogation.

A witness to the incident. Personnel interviewed as witnesses are neither the subject of the investigation nor is a punitive action proposed or contemplated against the employee as a result of the alleged incident at this time. As this is an administrative inquiry, you are being ordered by the Sheriff to cooperate and answer all questions asked of you truthfully. Failure to cooperate or answer questions truthfully will be deemed as insubordination, and punitive action will be taken. If during the investigation information is discovered wherein punitive action is possible or contemplated, you will be advised of that fact and offered all of those rights afforded to an employee suspected of misconduct. As a witness, you do have the right to representation by a person of your choosing who is not involved in the same investigation either as a witness or suspect. If desired, it is the employee's responsibility to secure representation prior to the date and time of the scheduled interview.

In order to complete this investigation, you are required to furnish a detailed account of your action and/or observations as soon as possible. You are hereby instructed not to discuss the substance of the investigation with anyone with the exception of your attorney or representative.

Contact this investigator as soon as possible, but no later than \_\_\_\_\_ at telephone number (530) \_\_\_\_\_ - \_\_\_\_\_ for an appointment for an interview.

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**NEVADA COUNTY  
SHERIFF'S OFFICE**



**SHANNAN MOON  
SHERIFF/CORONER  
PUBLIC ADMINISTRATOR**

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**ADMINISTRATIVE ADMONISHMENT**

Internal Affairs Number: \_\_\_\_\_

You are hereby advised that:

An Administrative Investigation is in progress within this department in which it has become necessary to obtain a statement from you. If you cooperate fully at this time, your statement and any evidence arising therefrom may be used in any and all proceedings arising out of this Administrative Investigation. As a citizen and employee of this department, you are hereby advised that if prior to or during the taking of your statement this department determines that you may be charged with a criminal offense, you will be advised of your constitutional rights before questioning proceeds or continues.

If you decide not to give a statement at this time, you are now ordered, as an employee of this department, to answer all questions asked by investigators and to give a full, detailed, and complete statement regarding your knowledge of or involvement in the matter now under investigation. Having been so ordered, any statements that you made cannot be used against you in any criminal proceedings. Your fitness to remain employed by this department is the object of this portion of the investigation, and you are hereby directed to cooperate fully with investigators so that a decision on your job status may be made as soon as possible. If you fail to comply with this order, you may be dismissed from employment with this agency on the grounds of willful disobedience and insubordination.

Assuming that you now comply with this order and cooperate fully in this investigation, your statements and any evidence obtained through such statements will be used, as to you, solely to determine whether departmental disciplinary action is necessary. False statements, of course, will result in severe disciplinary action, up to and including termination.

If you have any questions about your rights, you may ask them now.

I have read the above admonishment and order, and I fully understand my rights and duties in this investigation.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Signature

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**NEVADA COUNTY  
SHERIFF'S OFFICE**



**SHANNAN MOON  
SHERIFF/CORONER  
PUBLIC ADMINISTRATOR**

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**CITIZEN'S COMPLAINT FORM**

**You have the right to make a complaint against Sheriff's Office personnel for any improper 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 our employee behaved improperly. Citizen complaints and any reports or finding relating to complaints must be retained by this agency for at least five (5) years. (Penal Code 832.5)**

REPORTING PARTY'S FULL NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER/S: \_\_\_\_\_

SUBJECT OF COMPLAINT: If known, include: name, badge number, description, classification, or any identifiers that might help identify the employee) \_\_\_\_\_

DATE AND TIME OF EVENT/S: \_\_\_\_\_

LOCATION OF EVENT/S: \_\_\_\_\_

WITNESSES: (Include full name, address, phone numbers)

DETAILS OF COMPLAINT: (Please be as factually complete as possible.)

Continue on next page



## **Nevada County Sheriff's Office Citizen's Complaint Process**

Although not required, it is desirable that you come to the Sheriff's Office to complete a complaint form. Complaints may be made via telephone, mail, email, or any other format. You will be asked to complete as much information as possible to assist us in the investigation of your complaint.

### Citizen's Complaint

Generally, the supervisor of the employee/s who is the subject of the complaint will investigate the matter and report to the Undersheriff. The Undersheriff will then prepare a written response outlining our findings. We make every effort to send you a written response within 30 days of the date we receive your complaint.

### Internal Affairs Investigation

There may be times when the seriousness of the matter brought to our attention leads us to assign your complaint to one of our Internal Affairs Investigators. All information received will be treated confidentially by the Sheriff's Office. After completing the investigation, a complaint disposition shall be made, based on each alleged act of formal misconduct. You will be notified of the results of the investigation, however, you may not be allowed information contained within the investigation—only the disposition.

While these complaints are investigated by a person assigned by the Sheriff, the final disposition on the case shall be made by the Sheriff. When complaints are found to be sustained, the Sheriff shall administer the appropriate corrective and/or disciplinary action.