

PROFESSIONAL STANDARDS UNIT

Procedure Manual

Revised: April 2025

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PROFESSIONAL STANDARDS UNIT PROCEDURE MANUAL

SECTION I - FUNCTIONS OF THE PROFESSIONAL STANDARDS UNIT (PSU)

Overview

1. **Function.** PSU reviews and investigates internal and external administrative complaints of potential CCSO policy violations of employees, whether paid or volunteer, in a timely, thorough and impartial manner.
2. **Authority.** The PSU Supervisor has supervisory authority over internal affairs investigations and reports directly to the Sheriff, with daily operations of the unit overseen by the Undersheriff. PSU has primary authority to determine the complaint category level and investigation assignment of actionable complaints.
3. **PSU responsibilities:**
 - a. maintain the confidentiality of PSU investigations and records;
 - b. conduct investigations to conclusion, including after an employee separates from employment during an open investigation;
 - c. promptly notify the Undersheriff of potential criminal conduct;
 - d. provide professional standards training and education;
 - e. attend Executive Team meetings to report the status of PSU investigations;
 - f. oversee and maintain the PSU-Dashboard; and
 - g. prepare an annual PSU statistical summary report to Sheriff.

Procedure for Receiving a Complaint

4. **Form.** Complaints may be generated internally or by the public, in writing or verbally and may be accepted by any employee or made directly to PSU.

5. **Verbal Complaints.** Any employee below the rank of sergeant or supervisor receiving a verbal complaint from a citizen will attempt to connect the complainant with an on-duty sergeant or supervisor. If the employee is not able to reach a sergeant or supervisor, or the complainant declines, the employee will verbally notify a sergeant or supervisor of the complaint before the employee's shift is over. The sergeant or supervisor will determine whether the complaint is actionable in accordance with CCSO [Policy # 18](#), and process the complaint accordingly:

- a. **Actionable:** verbal complaints are entered into the PSU Dashboard and approved by the sergeant or supervisor before entry is finalized for PSU review; or
- b. **Non-Actionable:** when a verbal complaint is not actionable, the sergeant or supervisor sends an email to the PSU supervisor with the following information:
 - (1). Date, time and complaint detail;
 - (2). Reason the complaint was not actionable; and
 - (3). Associated CAD.

6. **Written Complaints.** Complaints not received directly by PSU are forwarded through the receiving employee's chain of command to PSU. When a complaint involves an Undersheriff the complaint is made directly to the Sheriff who reviews the complaint and determines the investigation.

7. **Complaint of Criminal Conduct.** If a verbal or written complaint alleges criminal conduct the employee receiving the complaint will immediately inform their chain of command, who will promptly notify an Undersheriff and the PSU Supervisor.

8. **Complaint of Workplace Harassment.** When a complaint alleges conduct in violation of [Policy # 15, Harassment, Discrimination and Retaliatory Conduct](#), PSU notifies the Undersheriff and County Human Resources (HR). PSU works with HR to cooperatively investigate the complaint and other potential CCSO policy violations.

Documenting Complaint in PSU- Dashboard & Submission to PSU

9. **Dashboard Entry.** Following receipt of an actionable complaint, the employee responsible for PSU-dashboard entry submits the complaint to PSU, following these steps:

- a. access the PSU-dashboard from the Standards tab within Evidence.Com;

b. select, "New Event", and complete all required fields and any additional information about the complaint which appears on the electronic intake form. The following information is required:

- (1). the name of the implicated CCSO employee and any witnesses;
- (2). a summary of the facts alleged by the complainant in the Complaint Details section;
- (3). the name, email address, street address and telephone number of the complainant;
- (4). the date, time, and location of the alleged incident; and
- (5). the date and time the alleged complaint was first received.

10. **Evidence:**

- a. **Physical Evidence.** Send directly to PSU.
- b. **Electronic Evidence.** To preserve confidentiality, electronic evidence is not submitted by email. Electronic evidence is submitted through Evidence.com Standards program, tagged as PSU.

11. **Submission Confirmation.** PSU reviews the information for sufficiency and processes the complaint according to policy. When PSU accepts the submission, the complaint will no longer be accessible in the Dashboard of the employee who submitted the complaint.

12. **Incomplete Information.** If PSU finds the information incomplete, the employee receives an email requesting additional information. It is the employee's responsibility to promptly provide requested information to PSU.

PSU Review of Submitted Complaint

13. **Receipt of Complaints.** The PSU Supervisor, or designee, routinely checks for any new submission within "PSU Review," submissions in-progress and those awaiting PSU acceptance.

14. **Review.** PSU reviews the allegations made in the complaint to confirm there are facts sufficient to state a potential policy violation, and the complaint is actionable in accordance with CCSO [Policy # 18](#).

15. A complaint is actionable unless:

- a. the complainant perceives wrongdoing, however, the information reported does not state a claim for a violation of misconduct (as defined in CCSO [Policy # 18](#));

- b. the complainant implicates a defense to an alleged violation of law that is properly addressed through a pending hearing or trial, and does not state a claim for a violation of policy/procedure (e.g. complaining about a traffic citation when traffic court is the appropriate venue);
- c. a complaint is not timely because it is not reported within a time that allows for a thorough investigation; or
- d. the complaint is an inmate grievance properly addressed under the provisions of the Jail Division inmate grievance procedure; however, the Jail Commander or designee reviews an inmate grievance to determine whether the complaint implicates misconduct to be addressed in accordance with CCSO [Policy # 18](#).

16. **Case Number/Executive Summary.** When a complaint is actionable and has sufficient and necessary information to begin an investigation, PSU assigns a case number to the complaint.

17. **Non-actionable.** If the complaint is non-actionable, PSU completes a memo documenting the reason, and promptly notifies the complainant in writing of the determination. PSU will document its reason in the internal tracking section of the dashboard.

Assignment of Level I & Level II Investigation

18. **Level Assignment.** PSU assesses the nature of the complaint and assigns the matter a Level I or II category. PSU may change the level assignment at any time during an investigation when facts warrant a different category:

- a. **Level I.** A Level I category is investigated by PSU, or an outside agency, and involves higher levels of misconduct, such as allegations of excessive force, workplace harassment, truth/integrity, and any conduct identified by the rules issued by the Commission on Statewide Law Enforcement Standards of Conduct and Discipline ([OAR 265, Division 5 and 10](#)). The PSU Supervisor informs the Undersheriff of all Level I assignments.
- b. **Level II.** A Level II category typically includes lower level behavior such as performance of work duties, or demeanor misconduct. Level II assignments are generally investigated, concluded, and addressed by the implicated employee's Chain of Command, however PSU may conduct the investigation.
 - (1). **Supervisory responsibility.** When a level II assignment is referred to the implicated employee's chain of command to investigate, PSU retains supervisory responsibility over the investigation. PSU personnel may provide the investigator with assistance or direction on investigative steps.

- (2). **Investigator assignment.** PSU confers with the implicated employee's Chain of Command to assign the investigator. When the complainant is the sergeant or supervisor of the implicated employee, consideration will be given to not assigning the investigation to that person. Likewise, consideration will be given to not assigning persons of equal or lesser rank to investigate the implicated employee.

19. **Assignment Guide.** The following table is a general guide for selecting whether a complaint is assigned as a Level I or Level II PSU Investigation depending on the facts alleged:

Level I INVESTIGATION	Level II INVESTIGATION
<ul style="list-style-type: none"> • Bias • Bias-based Profiling • Domestic Violence Allegations • Excessive Force Allegations • Member-Involved PREA Complaint • Misuse of Position • Sexual Misconduct • Truth/Integrity • Violation of Constitutional Rights • Violations of Drug Policy • Workplace Harassment 	<ul style="list-style-type: none"> • Performance of work duties such as: <ul style="list-style-type: none"> ○ Report Writing ○ Returning Phone Calls ○ Attendance/Tardiness ○ Assistance/Response to Requests • Traffic Infractions (i.e. deputy speeding) • Rudeness/Swearing/Demeanor

20. **Level I Definitions:**

- a. Bias - an element indicating prejudice in favor of or against an individual, or group compared with another;
- b. Bias-based Profiling - an element of targeting an individual based solely on an individual's real or perceived status as set forth in [ORS 131.930\(5\)](#). Refer to, [CCSO Policy # 16 Profiling Prohibited](#);
- c. Criminal - misdemeanor or felonious criminal conduct, to include official misconduct;
- d. Domestic Violence - an element of family/partner violence, to include child abuse/neglect, elder abuse/neglect, or violation of a restraining or stalking order;

- e. Excessive Force – an element that use of force was unlawful or unjustified under the circumstances;
- f. Truth/Integrity - an element of untruthfulness, or candor; conduct inconsistent with CCSO principles or values, oath of office; ethical or financial misconduct;
- g. Workplace Harassment: conduct in violation of the County’s employment policies and practices, to include Discrimination and Harassment Free Workplace, [EPP # 2](#), and CCSO [Policy # 15 Harassment, Discrimination and Retaliatory Conduct](#).

Evaluation of Related Potential Misconduct or Training

- 21. In its initial assessment of the complaint and during the investigation PSU:
 - a. investigates other potential policy violations discovered in the course of the investigation;
 - b. evaluates whether other employees may be involved in potential policy violations, along with the implicated employee;
 - c. assesses whether a supervision failure occurred, requiring further investigation and/or training; and
 - d. recommends training needs to the Training Division Captain.

Identification of Collateral Matters

- 22. At the time of review, PSU identifies related collateral matters that are concurrent with the administrative investigation, under “pending considerations” in the Dashboard:
 - a. Tort claim notice received;
 - b. Civil complaint filed;
 - c. DPSST certification under review;
 - d. Criminal investigation pending; or
 - e. Potential Brady implications.

Criminal Investigation Arising from Complaints

- 23. **Notification to US.** The PSU Supervisor promptly notifies the Undersheriff of facts that may implicate an employee in criminal conduct and has the authority to report directly to the Sheriff at any time.

24. **Notification regarding Executive.** PSU shall report criminal complaints against an Undersheriff to the Sheriff, and criminal complaints against the Sheriff to the Oregon Department of Justice.
25. **Notification to DA.** The Undersheriff, or PSU Supervisor as designee, will promptly notify the appropriate prosecuting authority, and the Clackamas County District Attorney's Office, when there is reasonable suspicion a CCSO employee may have committed a crime. Notification is documented in the PSU dashboard.
26. **Investigation Assignment.** In consultation with the Sheriff, the Undersheriff determines assignment of a criminal investigation to an outside agency, and may assign a CCSO liaison to the investigating agency. Procedures relating to officer involved shootings will follow the Clackamas County Interagency Major Crimes Team Investigative Protocol ([Policy # 39 – Use of Force, paragraph 16](#)).
27. **Separation of Administrative Investigation.** Only at the direction of the Sheriff may PSU conduct a separate administrative investigation while a concurrent criminal investigation occurs.
28. **Concurrent Investigations.** When PSU conducts an administrative investigation concurrent with a criminal investigation, PSU will not disclose any Garrity statements or information derived from such statements to the criminal investigation. However, information from the criminal investigation may be disclosed to the PSU investigator, and can be included in the PSU investigation of the employee.
29. **Outcome of Criminal Investigation on Administrative Findings.** A decision by the District Attorney's Office not to file criminal charges does not prevent administrative findings that there were CCSO policy violations arising from an investigation of the same incident.

SECTION II - Level I & II Assignments: Notification, Investigation, Disposition & Adjudication

30. **Definitions:**
- a. **Adjudicator:** a person who is the ultimate fact finder responsible for issuing a final determination on each alleged policy violation;
 - b. **Investigator:** a person assigned to complete the initial investigation who may or may not be in the implicated employee's chain of command, or a PSU investigator, or outside investigator. An investigator may not make findings in a case they investigate; and

- c. **Summary Finder:** a person who reviews the investigation report and makes a finding and disposition for an alleged policy violation for the Adjudicator's review and final determination.

Overview of Investigator, Summary Finder, & Adjudicator Assignments

31. The following positions in the chain of command align with the roles of Investigator, Summary Finder and Adjudicator depending on the rank of the implicated employee and whether the investigation is assigned a Level I or II category, as per the following chart. Generally, the roles align one rank up, however the PSU Supervisor in consultation with the Undersheriff, may assign a different rank to any role.

Level I INVESTIGATION	Level II INVESTIGATION
<p>Implicated employee is a manager or non-manager; Deputy; Sergeant; Lieutenant</p> <ol style="list-style-type: none"> 1. Investigator = PSU Investigator or Sheriff's designee <li style="text-align: center;">↓ 2. Summary Finder = Division Commander <li style="text-align: center;">↓ 3. Adjudicator = Undersheriff / Sheriff 	<p>General Rule: Assignments are progressively one rank above the implicated employee.</p> <p>Implicated employee is a non-manager</p> <ol style="list-style-type: none"> 1. Investigator = Sergeant/lead worker <li style="text-align: center;">↓ 2. Summary Finder = Lieutenant/manager <li style="text-align: center;">↓ 3. Adjudicator = Division Commander <p>Implicated employee is a Sergeant/lead worker</p> <ol style="list-style-type: none"> 1. Investigator = Lieutenant/manager <li style="text-align: center;">↓ 2. Summary Finder = Division Commander <li style="text-align: center;">↓ 3. Adjudicator = Undersheriff

Notification to Implicated Employee & Complainant

32. **Notification.** After PSU assigns the complaint a Level I or Level II category, PSU sends written notification separately to the complainant and implicated employee(s), with a copy to the applicable union on behalf of the employee ([Appendix, Notice Forms A and B](#)). The notice to the employee provides information about the nature of the complaint and the implicated policy violation(s). Notification is recorded in the Dashboard, *Complaint/Summary Description*.

33. **Discovery of Additional Potential Violations.** If during the course of the investigation additional potential policy violations are identified, PSU will provide the implicated employee written notification.

34. **Status Updates.** Per CCSO [Policy # 18 Professional Standards](#), an employee implicated in an open investigation has the right to know the status of the investigation at any time. When an inquiry is made, PSU documents the update in the Dashboard.

Investigation Timeline

35. **Completion Date.** When the case is assigned for investigation, PSU assigns an anticipated completion date. During the course of the investigation, the PSU Supervisor monitors the progress of the investigation and may request status reports from the investigator to ensure timeliness.

36. **Timeframe.** Completion dates are dependent on the level assignment category and generally adhere to the following timeframes:

- a. **Level I investigation** is completed within 90 days after receipt. If additional time is needed, the PSU Supervisor may extend the time. PSU notifies the complainant and affected employee(s) in writing prior to the expiration of the initial 90 days, and provides regular updates until the investigation is concluded; and
- b. **Level II investigation** is completed within 30 days after receipt. If additional time is needed, the PSU Supervisor may extend the time. PSU notifies the complainant and affected employee(s) of the extension prior to the expiration of the initial 30 days, and provides regular updates until the investigation is concluded.

37. **Extension.** If the PSU Supervisor extends the time to complete the investigation beyond the initial completion date, the Dashboard is updated to reflect:

- c. the date reviewed;
- d. the date extension requests were received and reason for the request;
- e. reason request was denied if applicable;
- f. the date notification/extension letters were issued.

Investigation Duties

38. The assigned investigator may engage in the following duties depending on the requirements of the investigation:

- a. review information received to date;

- b. collect any necessary preliminary information and evidence to facilitate investigation;
- c. identify investigative leads including background information, persons to be contacted, establishing facts;
- d. review related CCSO Policy and Procedure;
- e. determine if further documentation or material is required; obtain and review;
- f. conduct interviews of any identified witness (including CCSO employees);
- g. conduct interview of complainant;
- h. conduct interview of implicated CCSO employee(s);
- i. review submitted investigation for completeness, accuracy and sufficiency;
- j. ensure all records are stamped "PSU Original" and electronically processed;
- k. ensure digital evidence is uploaded to the electronic storage system;
- l. ensure all working copies, new original reports/memoranda and any other evidence or relevant documents are appropriately stored in the PSU file or in Arbitrator;
- m. if information is forwarded to the District Attorney for review, document date sent, and result of DA review and date received; and
- n. prepare investigative packet for Summary Finder review, and document date sent.

Evidence Collection and Storage

39. **Inventory.** Upon assignment the investigator inventories incoming physical and documentary evidence from the complaint, and enters it into PSU evidence. The investigator also ensures the evidence is reflected in the PSU-dashboard under "Supplemental Information."

40. **Audio/video evidence.** To ensure files are only accessible by authorized personnel and are not purged from the electronic storage system, audio/video evidence is uploaded in the electronic storage system, and tagged under the classifications, "PSU" label **and** "permanent storage".

41. **Storage.** All original evidence is kept in a secure area by PSU and not stored elsewhere unless approved by the PSU Supervisor.

Investigative Interviews

42. **Audio Video Record.** All interviews involving implicated employees conducted in the PSU office are audio and video recorded. Interviews of witnesses not held in the PSU

Office are audio recorded unless impractical, or when a non-CCSO witness declines. Records are tagged to identify the file as a PSU case with restricted access, and then uploaded to the electronic storage system.

43. **Union Representation.** The employee may have a representative from their union present at the interview. The role of the union representative is set forth in [Policy # 18](#), section 27:

- a. the representative may inquire, at the outset of the interview regarding its purpose, including inquiring about the general subject matter of the questioning to follow;
- b. during the investigator's questioning of an employee, the representative may participate only to the extent of seeking clarification of questions. The representative may not consult with the employee and the employee may not consult with the representative on whether or not to answer;
- c. after the investigator has completed the questioning of the employee, the representative may ask the employee questions designed to clarify previous answers or to elicit further relevant information; and
- d. before the end of the interview, the representative may suggest to the investigator other witnesses to interview and may describe relevant practices, prior situations, or mitigating factors that could have some bearing on the Sheriff's Office's determination of misconduct.

Investigator Report

44. Once the investigation is complete, the investigator prepares their Investigative Report to submit it to the Summary Finder. The report uses the form set out in the [Investigation Report template](#) (Appendix, Form F), and describes the investigative process, summarizes statements and evidence, and sets forth any other relevant information obtained during the investigation. An investigator may not make findings in a case they investigate.

Summary Findings and Recommended Disposition

45. **Summary Findings.** The Summary Finder reviews the investigative report(s) to make a summary finding and recommended disposition for each alleged policy violation. The Summary of Findings is provided to the Adjudicator to review, along with the investigative file. Generally, the Adjudicator confers with the Summary Finder to have an informed conversation about the evidence, findings and recommended disposition. The Adjudicator may ask the Summary Finder to clarify or add existing information to the summary, or require further investigation prior to making a preliminary determination.

46. **Summary Disposition.** For each alleged policy violation, a summary disposition is made in one of the following categories:

- a. **UNFOUNDED** – the investigation produced a preponderance of the evidence to prove the allegation is false and not factual;
- b. **EXONERATED** – the investigation produced a preponderance of the evidence to prove the employee’s actions were in conformance with policy or procedure;
- c. **NOT SUSTAINED** – the investigation failed to produce a preponderance of evidence to either prove or disprove a violation of policy or procedure;
- d. **SUSTAINED** – the investigation produced a preponderance of the evidence to prove the employee violated policy or procedure;
- e. **CLEARED BY EXCEPTION** – the investigation determined the conduct occurred; however, facts indicate the conduct is attributed to a leadership, policy or training deficit, which is not held against the employee;
- f. **SUSPENDED** – the investigation is unable to proceed because of an impediment to the investigation; it may be re-opened with new investigatory information.

47. **Completion Date.** Generally, summary findings will be completed within 30 days. Extensions may be granted by the PSU Supervisor in consultation with an Undersheriff, in 14 day increments not to exceed an additional 30 days.

Adjudication (*Read Adjudicator Instructions in Appendix*)

48. **Preliminary Determination.** The Adjudicator reviews the evidence, summary findings and recommended disposition to make a preliminary determination on disposition for each alleged policy violation, and decides proposed discipline.

- a. **Review of Evidence and Findings.** The Adjudicator confers with the Summary Finder to discuss the summary findings to reach an informed determination. The Adjudicator may concur with the summary findings as written, ask the author to provide additional information, clarify findings, or require further investigation before making a preliminary determination.
- b. **Determination.** The Adjudicator’s written determination completes the *Summary of Findings, Recommended Disposition & Preliminary Determination* by indicating one of two dispositions and signing the form:

- (1). **concur** with the recommended findings and disposition as written; concur and write separately to address specific findings; or
- (2). **not concur** in whole or in part with the recommended findings with a memo explaining why.

49. **PSU Notice of Investigation Completion & Sustained Findings.** At the conclusion of an investigation, PSU provides the employee and their union written notice of findings. When findings implicate a policy violation, PSU sends a notice to the employee and their union, with information that the investigation is complete and findings for each alleged policy violation (Appendix, Form C). PSU informs the employee that discipline, if any, will be determined by the Adjudicator in a separate notice. When findings do not implicate a policy violation, PSU informs the employee and their union in writing of the findings and that the investigation is closed.

50. **Disciplinary Record.** PSU will work with the Operational Support Division Manager to obtain a copy of the employee's past disciplinary record from County HR and the Performance Document File. PSU will provide the information to the Adjudicator to inform their decision regarding proposing discipline.

51. **Adjudicator Notice of Intent to Discipline/Loudermill Hearing.** When the Adjudicator proposes discipline, they complete the PSU form, *Intent to Discipline/Loudermill Hearing Notice*, to send to the implicated employee, their union, and PSU. Receipt of the notice informs PSU to prepare the PSU file for mitigation.

52. **Preparation of Mitigation Packet.** PSU prepares the investigative file (mitigation packet) and sends it to the respective union on behalf of the employee, recording the date in the Dashboard. With each packet, PSU provides a written notice to accompany the file advising the recipient that the file may not be copied or further disseminated, for any purpose, other than to administer mitigation (Appendix, Form G). At the conclusion of the mitigation hearing, all copies of the record are returned to PSU. The mitigation packet includes the following:

- a. copy of the PSU case file except for confidential communications that are protected by privilege such as, attorney-client privilege;
- b. copies of audio and video interviews and all transcriptions; and
- c. copies of spreadsheets, video evidence, other electronic evidence.

Loudermill Hearing – Mitigation

53. **Loudermill Hearing.** The mitigation hearing is the employee's opportunity to rebut any and all of the preliminary findings and provide mitigating information to the Adjudicator prior to a final determination imposing discipline. The hearing is recorded.

Final Determination

54. **Final Determination.** The Adjudicator, after taking into consideration information presented at the mitigation hearing, will take final action in accordance with the disciplinary process outlined in [CCSO Policy # 19 Discipline and Corrective Actions](#). The Adjudicator's decision after mitigation is the agency's final determination in the matter.

55. **Application of LESC Rules.** When conduct in a violation of CCSO policy is sustained and is misconduct identified by the Law Enforcement Standards of Conduct and Discipline (LESC) Rules, for instances other than mandated termination the Adjudicator must follow the LESC Discipline Matrix and apply the LESC Aggravating and Mitigating Factors in making their Final Determination and Imposition of Discipline. See, [CCSO Policy # 19 Discipline and Corrective Actions](#).

56. **Imposition of Disciplinary Action & Adjudicator's Notification:**

- a. **Notice to Employee/Union.** The Adjudicator notifies the implicated employee and their union in writing of the Adjudicator's final decision and imposition of discipline, in both Level I and Level II Investigations.
- b. **Notice to County HR.** The Adjudicator sends the discipline record to the CCSO Operational Support Division Manager who sends the record to County HR to be included in the implicated employee's personnel record.
- c. **Notice to PSU.** The Adjudicator notifies PSU of the date of final determination and notice to the implicated employee/union, along with findings for each violation. This information allows PSU to close the investigation.
- d. **Enter information in Performance Document File.** The Adjudicator, or designee, enters the policy violation, the disciplinary action and PSU number; no narrative.
- e. **Administration of Discipline.** The Adjudicator may assign the administration of discipline to the impacted employee's chain of command.

57. **PSU Notifies Complainant.** PSU sends written notification to the complainant for both Level I and Level II investigations of a final determination, however information about disciplinary outcome is not disclosed to the complainant.

Post Hearing Procedures

58. **Mitigation evidence.** The Adjudicator forwards to PSU any new documentation provided or discovered during the mitigation hearing to be included with the case file, along with the recording of the mitigation hearing.
59. **Collection of PSU Records.** After adjudication, PSU collects all copies of the mitigation packet from the implicated employee, their union and any other PSU materials.
60. **Separation of Disciplinary Record.** PSU ensures that no records of discipline are retained in the PSU investigation file, and are forwarded to CCSO/HR.
61. **Investigation closure.** PSU documents the “Completed Date”, the date of notice of final determination, and checks the Performance Document File to ensure the Adjudicator has recorded the final disposition.

Petition for Reconsideration by Complainant

62. Per [CCSO Policy # 18 Professional Standards](#), when findings are Not Sustained, Exonerated, or Unfounded, the complainant may petition the Sheriff, through the PSU Supervisor, to review the matter. A complainant may also request a review when new or additional evidence is provided by the complainant.
63. The PSU Supervisor will confer with the Sheriff, or designee, who may grant or deny the petition for reconsideration at their discretion. If the petition is denied, the matter is closed.

Review Following Grant of Petition for Reconsideration

64. **Investigation Re-opened.** If the Sheriff, or designee, grants a petition for reconsideration, PSU re-opens the investigation and notifies the implicated employee.
65. **Assignment.** The Sheriff, or designee, may assign the review to any command staff member. The reviewer may obtain any additional information and evidence, assign the matter for further investigation, or determine no additional information is necessary.
66. **Findings.** At the conclusion of review, the reviewer completes an investigatory memo to report their findings to PSU, which is documented in the, “Investigative Notes” section in the Dashboard.
67. **Disposition.** PSU sends a, “Final Disposition” letter to the implicated employee and complainant notifying each of the result of the review.

SECTION III - Disclosure and Confidentiality of PSU Records

Disclosure to Authorized Staff

68. Per CCSO [Policy # 18 Professional Standards](#), all PSU investigative files are confidential and not subject to disclosure outside of PSU, the Chain of Command and authorized staff, unless required by law or compelled by court order. Chain of Command and authorized staff includes:

- a. Sheriff;
- b. Undersheriff;
- c. implicated employee's Division and Watch Commander;
- d. Other assigned Investigators (only when applicable to the specific case);
- e. County Human Resources; and
- f. Counsel representing the Sheriff's Office or County.

Employee Review of PSU Record

69. **Request.** An employee may review any completed PSU investigation file naming the employee as the subject of the complaint, by emailing PSU with a request.

70. **Review in-person.** The review is conducted in person at the PSU office. No information from the file may be copied, photographed or otherwise removed from the file; notes may be taken. At the time of viewing the employee signs an assurance that no documents or evidence will be taken from the PSU record.

71. **Confidential information redacted.** Prior to review, PSU redacts information about misconduct of another employee to which the reviewing employee would not be privileged.

72. **Documentation.** PSU prepares a memorandum for the file with the following information:

- a. cases in the file at the time of the request;
- b. investigations pending disposition, if any;
- c. the employee review date and location,
- d. whether information was redacted; and
- e. other material information relevant to the review.

Union Review of Closed Investigation

73. **Request.** As part of the grievance process to administer the collective bargaining agreement, the employee's union may review a closed PSU investigation relating to a nonimplicated employee when the investigation relates to a policy violation similar in nature to an implicated employee's policy violation that is pending mitigation. PSU sends notice of the union's request to the non-implicated employee and documents notification in the related PSU file.

74. **Review.** The review is conducted by a union representative in-person at the PSU Office. No information from the closed PSU file may be copied, photographed or otherwise removed; notes may be taken. At the time of viewing the representative signs an assurance that no documents or evidence will be taken from the PSU record.

Disclosure to Third Parties

75. **Authorization.** An employee may authorize the release of information in their PSU record to a third party by completing, an "Authorization to Release Employment Information" form provided by PSU. PSU will not release information to a third party until the signed form is received. An employee signed waiver provided by the third party, is not sufficient. PSU documents the request, authorization and waiver, and PSU response in the PSU file.

76. **In-person Review.** When both the written request and signed waiver are received, PSU will make an appointment for the third party to view the file in person in the PSU suite. No documents are permitted to be removed from the PSU file. Cases that are nonactionable will not be included in the CCSO employee's PSU history.

77. **Release of Information.** When the third party cannot review the file in-person, PSU responds with a letter containing only the following information from the PSU file:

- a. PSU case number;
- b. Policy/Procedure violation;
- c. Finding(s); and
- d. Date case was closed.

Disclosure Required by Law

Potential Exculpatory or Impeachment Evidence to Prosecution

78. CCSO Policy # 40 Disclosure of Potential Exculpatory or Impeachment Evidence to Prosecution (Brady Information):

State Process:

- a. All *Brady* information is discoverable and prosecutors have an affirmative duty to seek and disclose it. In disclosing Brady evidence to the District Attorney's Office, the Sheriff's Office follows the protocols set forth in the Clackamas County District Attorney's Office, [Protocol Regarding Brady Evidence and Law Enforcement Witnesses Who Are Employees/Officers](#);
- b. The PSU Supervisor will facilitate and support the Undersheriff in providing prompt notification to the Chief Deputy of the Clackamas County District Attorney's Office:
 - (1). when there is reasonable suspicion that a CCSO employee may have committed a crime that may lead to prosecution ([Policy #18 Professional Standards](#), paragraph 15); and
 - (2). when there is potential exculpatory or impeachment material relating to an employee who may be called as prosecution witness.

Federal Process:

- a. The Henthorn case is the basis for Federal discovery procedures and the Portland AUSA typically sends a "Henthorn" letter, notifying PSU that a CCSO employee is a witness in a federal prosecution and requests a written response regarding any of the following information:
 - (1). finding(s) of misconduct that reflect(s) upon the truthfulness or possible bias of the CCSO employee, including a lack of candor during an administrative inquiry;
 - (2). past or pending criminal charge(s) brought against the employee;
 - (3). credible allegation(s) of misconduct that reflect upon the truthfulness or possible bias of the CCSO employee who is the subject of a pending investigation; and
 - (4). allegation(s) made by a state or federal prosecutor, judge or magistrate that reflect upon the truthfulness or bias of the CCSO employee.

- b. **PSU responsibilities.** When complying with a *Brady* or *Henthorne* request, PSU will:
- (1). contact the CCSO Operational Support Division Manager to check the employee's *personnel* file for the requested information and copy discoverable information;
 - (2). check the CCSO employee's training Performance Document File for the requested information and copy discoverable information;
 - (3). check the employee's PSU file and copy discoverable information;
 - (4). when no discoverable information is found, PSU sends a response letter acknowledging receipt of the request and confirms no responsive information was found in the records search;
 - (5). when discoverable information is found, PSU confers with the Undersheriff to obtain direction whether to contact the requesting AUSA directly, or to request County Counsel assistance to communicate the information to the AUSA;
 - (6). after conferring with the requesting AUSA, PSU sends a response letter documenting discoverable information;
 - (7). the original request letter and PSU response is retained in the PSU file; and
 - (8). In the event PSU discloses PSU records under Brady, PSU will provide written notice to the employee prior to releasing the records, notice will not delay the release of the file.

Disclosure Compelled by Court Order, Subpoena, Civil Discovery

79. The PSU Supervisor promptly confers with the Undersheriff after receiving court orders and subpoenas to determine next steps, unless directed otherwise by the Undersheriff. The PSU Supervisor will appear as the custodian of record in a proceeding compelling the PSU record:

- a. **Criminal Subpoenas from the Defense.** PSU notifies the DA's Office promptly. In some instances, the prosecuting Deputy DA may assist by negotiating with the defense attorney to provide the subpoenaed information through criminal discovery. When that does not occur, and the Sheriff's Office determines the information is improperly compelled by criminal subpoena, PSU contacts County Counsel to represent the Sheriff's position. Counsel files a motion to quash in the pending criminal matter and appears at the hearing to defend the motion. The PSU Supervisor may be called to testify at the hearing;

- b. **Civil Subpoenas.** PSU consults with the Undersheriff to determine if there is an objection to producing the PSU record or information compelled by subpoena, and whether to engage County Counsel to file a motion to quash the subpoena;
- c. **Court Orders.** A court order must be followed. If PSU is unable to comply with the order, notify the Undersheriff and obtain direction to contact County Counsel for assistance; and
- d. **Litigation Civil Discovery.** Generally, in a pending lawsuit the production of PSU records for civil discovery will be directed by County Counsel, through the Sheriff's Office Risk Manager. In some instances, information in the PSU record may be redacted to preserve the confidentiality of employees not related to the litigation. The PSU Supervisor examines the PSU record for redaction and notifies the CCSO Risk Manager and Counsel. Counsel will determine what, if any, information is redacted from the record. Typically, Counsel requires an unredacted record be produced along with a redacted copy. PSU coordinates with CCSO Records to prepare the redacted record. PSU notes in the Dashboard what specific records were sent to Counsel.

DPSST Access to PSU Record

80. As allowed by [ORS 181A.670](#), DPSST has statutory authority to access personnel records, including internal affairs records. DPSST may review the record in-person, or elect to have the record copied and sent. Information that may disclose confidential information about other employees other than the subject of the request, is redacted.

SECTION IV – Administration

File Retention and Access

81. **Retention.** PSU procedure for retention of all case files shall be consistent with retention for at least 10 years after the employee leaves employment. [ORS 181A.667](#).

82. **Access.** All PSU case files and related evidence are secured in a restricted physical or electronic location and only personnel authorized by the Sheriff have access.

PSU Supervisor Responsibilities

83. **Ensures Completion of Investigation.** The PSU Supervisor has responsibility over internal affairs investigations and ensures open investigations reach conclusion. In instances where an internal affairs investigation is opened and the employee separates from employment during the investigation, the PSU Supervisor oversees the investigation

to conclusion up until the Adjudicator's determination. Generally, in instances when during an open investigation the employee has not yet been interviewed and moves from administrative leave to protected leave status, the Supervisor ensures the investigation continues until conclusion, short of interviewing the employee. The investigation is then stayed until the employee returns to administrative leave status which allows the interview to proceed, or the employee separates from employment.

84. **Executive Team meeting report.** Attends Executive Team meetings to provide updates on PSU investigations.

85. **Training.** In coordination with the Training Division provides PSU training to:

a. **New Employee Training** - provides PSU orientation and training;

b. **Newly Promoted Personnel** - provides complaint intake and investigation procedures training to newly promoted sergeants/lieutenants and supervisors/managers; and

c. **Annual Brady Training** - provides annual training to sworn personnel on PSU procedures and [Protocol Regarding Brady Evidence and Law Enforcement Witnesses Who Are Employees/Officers](#).

86. **Review of Non-actionable Complaints.** Periodically reviews a random sample of, "non-actionable" verbal reports of complaints received that do not violate any specific policy, procedure, or law to determine application and consistency of PSU standards.

87. **Tort Claim Review.** In consultation with the Risk Management Captain, reviews tort claims to determine if there is a related PSU investigation. The Risk Captain will inform County Counsel when there is a related investigation. When there is no related investigation, the PSU Supervisor and Risk Captain coordinate review of related reports to identify potential policy violations and training. PSU will confer with Counsel and the Risk Management Captain prior to commencing an investigation.

88. **Annual Profiling Certification.** Before January 31 each year, PSU provides to the Sheriff for signature and submission to the State Criminal Justice Commission:

a. the Oregon **Annual Profiling Certification Form** that certifies the Sheriff's Office's policy prohibiting profiling conforms to requirements of [ORS131.920 to 131.945](#);

b. if a profiling complaint was made during the past calendar year, an Oregon **Profiling Complaint Summary Form** is submitted for each complaint with copy of the original complaint redacting [personal information](#) concerning the complainant and deputy;

- c. PSU submits the Complaint Summary Form with the Annual Profiling Certification Form; however, if no profiling complaints were made only the Annual Profiling Compliant Certification Form is submitted; and
- d. PSU will ensure the completed forms are sent by email no later than January 31st each year to the Criminal Justice Commission at cjc.stop@oregon.gov. The forms and additional information can be accessed on the CJC website at: oregon.gov/cjc/stop or at (503) 373-0056.

89. **PSU Annual Report.** PSU provides an annual report to the Sheriff setting forth summary information of all PSU investigations in the preceding year to include the number and nature of complaints, findings, time to completion of investigation and disciplinary action taken. Summary information of annual profiling certification information is also included.

90. **Report to Department of Public Safety Standards and Training:**

a. **Economic Sanction.** Within 10 days after an economic sanction has been imposed on a police certified deputy is final and the arbitration process is complete, the PSU Supervisor will report the discipline to the Department of Public Safety Standards and Training. PSU will copy the CCSO Operational Support Manager for retention in the employee's personnel file, who will provide notice of the action to the employee. The report to DPSST will identify the deputy as an employee or former employee of the Sheriff's Office and include:

- (1). The name and rank of the police certified deputy disciplined; and
- (2). A description of the facts underlying the discipline imposed, including a copy of any final decision.

d. **Sustained Misconduct.** When an investigation results in a finding that sustains misconduct as defined in [ORS 181A.681](#), the PSU Supervisor will notify the Department of Public Safety Standards and Training by completing the designated DPSST form.

- (1). Misconduct means:
 - (a). Unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of the Sheriff's Office Use of Force policy;
 - (b). Sexual harassment or sexual misconduct;
 - (c). Discrimination against a person based on race, color, religion, sex, sexual orientation, national origin, disability or age; or

(d). criminal conduct.

91. **Complaint Received by Department of Public Safety Standards and Training Referred to CCSO.** The PSU Supervisor will meet with the Undersheriff to review a complaint received by DPSST and ensure the complaint is added to the PSU Dashboard to be evaluated in accordance with Policy 18, Professional Standards. After consultation with the Sheriff, the Undersheriff may act as the Sheriff's designee to sign the DPSST acknowledgement indicating the complaint was reviewed and handled in a manner consistent with policy.

Appendix

POLICY

[Policy 15 - Harassment, Discrimination and Retaliatory Conduct](#)

[Policy 16 - Profiling Prohibited](#)

[Policy 18 - Professional Standards](#)

[Policy 19 - Discipline and Corrective Actions](#)

[Policy 40 - Disclosure of Potential Exculpatory or Impeachment Evidence to Prosecution \(Brady Information\)](#)

PSU FORMS

[Form A - Notice of Level I PSU Investigation](#)

[Form B - Notice of Level II PSU Investigation](#)

[Form C - Notice of Completed Investigation & Sustained Findings](#)

[Form D - Notice of Completed Investigation & Findings, No Violation of Policy/Procedure](#)

[Form E - Notice of Suspended PSU Investigation](#)

[Form F - Investigation Report, template](#)

[Form G - Mitigation Packet Cover Letter – Notice to Return/destroy PSU Record](#)

ADJUDICATOR GUIDELINES & FORMS

[Adjudicator Instructions](#)

[Garrity Warning](#)

[Summary of Findings, Recommended Disposition, & Preliminary Determination](#)

[Intent to Discipline/Loudermill Hearing Notice](#)

[Notice of Final Determination & Imposition of Discipline](#)