3-01/122.15 - Policy of Equality - Procedures - Equity Complaint Process

Reporting Complaints

Any Department member who believes they have been subjected to conduct that violates the policy is encouraged to report the matter to:

- Any Department supervisor or manager (whether or not in the Department member's chain-of-command); or
- The Intake Specialist Unit (ISU) at (323) 890-5371.

Non-supervisory Department members are also encouraged to report potential violations of the policy directed toward another to a supervisor, manager, or to the ISU, the number for which has been provided above.

Supervisors and managers shall report potential violations of the policy in accordance with the procedures detailed above.

The Intake Specialist Unit (ISU)

The ISU, staffed by both sworn and professional staff Department members, is an initial point of contact for Department members who wish to report a potential violation of the policy. Department members are not required to identify themselves when contacting the ISU.

The ISU also shall assist Department members in finding the right point of contact for questions regarding the policy and procedures or equity issues.

The ISU shall be responsible for conducting an assessment of the POE Report/Notification form to determine the appropriate course of action based on the designation below:

- “A” designation indicates that, based on the information obtained during the intake assessment process, it is clear there has been/is a potential violation of the Policy of Equality (POE), which rises to a level requiring a further investigation by the Equity Investigations Unit (EIU)/Internal Affairs Bureau. These cases will be referred to the EIU for investigation and resolution.
- “B” designation indicates that, based upon the information obtained during the intake assessment process, the ISU believes that although the situation may involve, or appear to involve, an equity issue, the situation does not rise to the level requiring a further investigation by the EIU. Cases receiving a “B” designation are typically referred back to the unit involved for follow-up action, including, but not limited to, supervisory inquiry, counseling, re-briefing, training, etc., as may be recommended by the County Equity Oversight Panel (CEOP).
- “C” designation indicates that, based upon the information obtained during the intake assessment process, the ISU determined there is no proven equity issue involved, or that there is insufficient information revealing a causal connection between the alleged adverse or disparate treatment and a protected category enumerated under the POE. Cases receiving a “C” designation may also be referred back to the unit involved for follow-up action, as may be recommended by the CEOP.
- “N” designation indicates the situation involves a Department employee as the complainant and a non-

sheriff employee as an alleged involved party. The complainant will also be forwarded to the non-sheriff employee's agency/department or employer for investigation.

The ISU shall contact the complainant during the course of the investigation if there is reasonable basis to believe that retaliation is occurring. The ISU shall make prompt notification to the appropriate parties if an issue of retaliation is raised.

- Supervisors and Managers

  Department members also may report potential violations of the policy and/or procedures to any Department supervisor or manager as defined above.

Investigating Complaints: The Equity Investigations Unit (EIU)

The EIU is responsible for promptly and effectively investigating reports of conduct that violates the policy or procedures. EIU investigations shall be immediate, thorough, objective, and complete. EIU investigations shall be as confidential as reasonably possible consistent with the Department's obligation to conduct a full and effective investigation. Upon conclusion of the investigation, the EIU investigators shall present their findings to the CEOP for review.

The EIU investigator(s) assigned to the case shall conduct an initial investigation to determine whether there has been a potential violation of the policy and/or procedures. If the initial investigation indicates a potential violation of the policy and/or procedures, the investigator shall open an administrative investigation at the direction of an EIU lieutenant, who may seek the advice or concurrence of the equity commander. Any decision not to open an administrative investigation shall be forwarded to the CEOP for review.

Review of Equity Investigations Unit's (EIU) Investigations

- The County Equity Oversight Panel (CEOP)

  The CEOP is an independent oversight body which, in accordance with the procedures described in this section, shall have authority and be responsible for reviewing the intake assessment process and EIU investigations and making appropriate determinations for violations of the policy and/or procedures. The CEOP shall meet bi-monthly, or more frequently if necessary, to discuss and review each EIU investigation.

  In addition, the CEOP shall be responsible for, among other matters, monitoring and evaluating the quality of the EIU investigations and the effectiveness of the policy and procedures. The CEOP shall also serve as an equity policy advisor to the Department.

- The Review Process

  The review process shall consist of the following steps:

a. The CEOP shall receive a thorough briefing from and have the opportunity to question the investigator(s) who handled the EIU investigation. The subject's division chief or director and/or unit commander may attend the briefing. In addition, the CEOP shall have the authority to command the appearance of any Department member deemed necessary to a full and effective resolution of the complaint or incident.

Any information relied upon by the CEOP to reach its decisions must be reflected in the subject's investigation package, including any new information received from any attendee to the CEOP's briefing.

b. The CEOP shall meet to discuss and deliberate on the EIU case presented. A representative from county counsel may be present to offer advice as required under applicable protocols. The subject's division chief or director and/or unit commander may be present at the request of the CEOP members. After discussion, the CEOP shall determine appropriate dispositions and discipline, if discipline is warranted. The CEOP immediately shall cause to be forwarded to the Sheriff for review all cases where its final recommended discipline determination exceeds 15 days suspension (See "Sheriff's Review of Discipline in Excess of 15 Days Suspension," below.).
c. In all cases, the CEOP may direct the EIU to conduct further investigation. If further investigation is directed, another review shall be held in accordance with this section after the investigation.
d. The CEOP shall communicate its recommendations to the EIU, which shall notify the appropriate parties. The EIU shall issue a Letter of Intent to Impose Discipline to the subject or, where appropriate, inform the subject that the complaint was unfounded or unresolved. At the same time, the EIU shall issue a letter to the complainant indicating that the complaint was either founded, unfounded, or unresolved and that, if founded, appropriate corrective action was determined. Proposed disciplinary action shall be kept confidential until the EIU receives the determinations regarding dispositions and discipline from the CEOP or Sheriff or his delegate.

Sheriff's Review of Discipline in Excess of 15 Days Suspension

The Sheriff shall have the authority to review all cases of discipline in excess of 15 days suspension, including demotion and termination. For these cases, the Sheriff shall have the authority to adopt or modify the discipline and/or reopen the investigation if deemed necessary.

The Sheriff may delegate the aforementioned authority to the undersheriff or an assistant sheriff.

Skelly Hearings

Where applicable, the subject Department member may elect to have a hearing on discipline (a "Skelly" hearing) before the discipline is imposed. If the subject elects to have a Skelly hearing, the Department shall designate a Skelly officer.

Information presented by the subject at the Skelly hearing that was known to the subject at the time of the subject's EIU investigation but not disclosed shall not be grounds for overturning the CEOP's recommendation. If the subject presents new facts during the Skelly hearing (i.e., facts discovered subsequent to the subject's EIU investigation), the Skelly officer shall send the case back to the EIU for further investigation.

The Skelly officer shall promptly communicate, in writing, the factual and legal basis for any decision to modify the CEOP's determinations to the Sheriff and to the CEOP. Failure to do so may be grounds for discipline.

Grievance Procedures

- Department Member's Rights

Department members also may grieve disciplinary actions according to the terms of applicable memoranda of understanding (MOU) negotiated by the Department and the union representing said members. As such, these MOUs may require separate or additional procedures according to their respective terms.

- Supervisors' and Managers' Responsibilities

  Any supervisor authorized to conduct grievances shall promptly communicate, in writing, to the CEOP and to the subject's division chief or director the factual and legal basis for any decision to modify the CEOP's determinations. Failure to do so may be cause for discipline.

  Information presented by the subject during the grievance that was known to the subject at the time of the subject's EIU investigation but not disclosed shall not be grounds for overturning the CEOP's recommendation. If the subject presents new facts during the grievance (i.e., facts discovered subsequent to the subject's EIU investigation), the supervisor authorized to conduct the grievance shall send the case back to the EIU for further investigation.

Appeals to Civil Service

Department members also may appeal final determinations of discipline to the Civil Service Commission in accordance with the Civil Service Rules. Where the final discipline determination exceeds 15 days suspension, the Department may not settle a Civil Service Commission case without prior approval by the Sheriff or his designee. In all other cases, the Department may not settle a Civil Service Commission case without prior approval by the CEOP.