

Appendix 1
Response to OLEO Complaint Classification Recommendations

Recommendation	Sheriff's Office Response	Implementation Status	Sheriff's Office Steps to be Taken
<p>Recommendation #1 - Accepting Complaints: The policy should include language explicitly providing that complaints may be received in writing or verbally, in person, by mail, telephone, facsimile, electronic mail, or by any other means. Furthermore, the policy should state that the Sheriff's Office will accept third party complaints.</p>	<p>Agree the policy should be revised to include this information because it is consistent with current practice.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval
<p>Recommendation #2 - Accepting Complaints: The public must be clear that the Sheriff's Office encourages people to bring forward legitimate complaints regarding possible misconduct. Therefore, the policy should also specifically provide that employees will not discourage any person from making a complaint and will be disciplined for doing so.</p>	<p>Agree the policy should be revised to include this information because it is consistent with current practice.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval
<p>Recommendation #3 - Intake Process: The policy should explicitly provide that employees shall assist individuals who express the desire to lodge complaints against any employees, which shall include, but is not limited to: (a) Calling a Supervisor to the scene to conduct a preliminary inquiry and document the complaint (for example, summoning the supervisor of the officer against whom the complaint is made); (b) Explaining the Sheriff's Office's complaint procedures; and (c) Providing complaint form(s) and/or complaint brochures, or give instructions as to where form(s) and/or brochures could be obtained.</p>	<p>Agree the policy should be revised to include this information because it is consistent with current practice.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval

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<p>Recommendation #4- In-Person complaints: If an individual comes into any precinct of the Sheriff's Office seeking to make a complaint, an on-duty Supervisor should be immediately notified. The Supervisor should then respond to the Sheriff's Office to conduct a preliminary inquiry of the complaint. If a supervisor cannot respond to the location within a reasonable period, communications and desk personnel should provide the complaint form to the person wishing to file a complaint.</p>	<p>Agree the policy should be revised to include this information because it is consistent with current practice.</p>	<p>Draft revisions are pending.</p>	
<p>Recommendation #5 - Public Information and Access: The Sheriff's Office must ensure that informational materials about filing a complaint are made available to the public through the Sheriff's Office personnel, internet, libraries, community groups/community centers, and at designated public facilities.</p>	<p>Agree the policy should be revised to include some of this information because it is consistent with current practice. Forms should be made available in locations or formats where Sheriff's Office personnel can collect and forward.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval
<p>Recommendation #6 - Concurrent Investigations: The policy should provide guidance as to the available options and the benefits and issues associated with running concurrent criminal and administrative investigations.</p>	<p>Agree the policy should be revised to include this information because it is consistent with current practice.</p>		<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval

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<p>Recommendations #7 - Complaint Categories: The current policy divides complaints as criminal and non-criminal, and investigations are divided by "minor" and "major," depending on the type of discipline that may be received for sustained allegations. We recommend including a section that provides complaint categories that better classify the description of the allegations, examples of the allegations, and what level of supervision will handle the investigation.</p>	<p>Agree the policy should be revised to clarify categories. Current proposal divides the complaints into "CARE" violations (Major violations), Section (Minor) investigations, and supervisor intake.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval
<p>Recommendation #8 – Complaint Categories: The current policy provides a separate section for intoxication complaints and use of force complaints which includes limited instruction. These sections should refer to a specific policy that covers these categories of complaints as the current policy does not provide adequate guidance or procedure regarding investigations of these complaints.</p>	<p>Agree the policy needs restructuring, moving force related guidance to the section on Use of Force, where significant guidance exists; leave intoxication as separate section.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval
<p>Recommendation #9 – Uncooperative Witnesses: The policy should explicitly provide that no investigation shall be closed or otherwise disregarded simply because a subject or complainant is unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury.</p>	<p>No action recommended, already addressed in GOM 3.03.185.5©.</p>	<p>See Sheriff's Office response.</p>	
<p>Recommendation #10 – Standards of Proof: The standard of proof for any administrative investigation, regardless of the seriousness of the misconduct or the possible discipline, is "preponderance of evidence." Unless there is a specific provision in the CBA addressing this issue, the Sheriff's Office should immediately address this policy error for all future administrative investigations, and ensure investigators utilize the correct standard of proof.</p>	<p>No action recommended, advice is inconsistent with practices employed in labor arbitration; arbitrators apply a higher standard in some cases and investigations must take this into account.</p>	<p>See Sheriff's Office response.</p>	

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<p>Recommendation #11 – Credibility Assessments: The policy is silent as to the requirement that investigators conduct credibility assessments of all parties involved in the investigation, e.g. subject officer(s), witness officer(s), complainant, witnesses, etc. The policy should require investigators to conduct credibility assessments and provide that officer statements will not be given an automatic preference over a complainant’s statement, nor will a witness’ statement be disregarded on account that the witness is connected to the complainant. In addition, the policy should require investigators to make every effort to resolve material inconsistencies or discrepancies between witness statements and other collected evidence.</p>	<p>No action is recommended. IIU Investigators are not asked to determine credibility; they gather facts so that command staff can make findings, which may require that person to make credibility assessments.</p>	<p>See Sheriff's Office response.</p>	
<p>Recommendation #12 – Investigation Due Dates: A 180-day timeframe, or six months, for an administrative investigation is excessive. Generally, the Sheriff’s Office should strive to complete administrative investigations as soon as practical. While some investigations of a complex matter may require 180 days, this is an excessive amount of time to assign to all IIU investigations. Recommend a timeline of 60 days with ability to extend with authority from the Sheriff.</p>	<p>Agree that some investigations can and should be conducted in less than 180 days, but others cannot. Proposals directed at lessening timeframe are pending, but no changes are recommended until staffing levels increase.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval

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<p>Recommendation #13 – Investigative Report: The policy currently provides the format in which the investigator must complete the administrative investigative reports. We recommend including that the investigative findings shall also include whether: (a) the police action complied with policy, training, and legal standards regardless of whether the complainant suffered harm; (b) the incident involved misconduct by any member; (c) the use of different tactics should or could have been employed; (d) the incident indicates a need for additional training, counsel, or other non-disciplinary corrective measures; and (e) the incident suggests that the Sheriff's Office should revise its policies, training, and tactics. An example of a recommended report template is attached as Appendix A.</p>	<p>Inconsistent with investigator role in gathering information, as opposed to fact finding which is handled by commanders based on investigation provided by IIU. Does not appear that consultant considered the relevant portion of Sheriff's Office process.</p>	<p>See Sheriff's Office response.</p>	
<p>Recommendation #14 – Complainant Notification: Section 3.03.190 of the current policy requires the IIU Commander to ensure that the complainant is notified in writing of the final disposition of the investigation without delay. The policy, however, should provide for additional notifications to the complainant regarding the status of the investigation. Notification to the complainant should be made when the complaint is accepted, with status updates every 45 days and at the time of final disposition.</p>	<p>Not a reasonable goal with current staffing levels and case load. Primary goal of proposed IIU revisions is to reduce timeframe for less complex investigations, which addresses this in part.</p>	<p>See Sheriff's Office response.</p>	

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<p>Recommendation #15 – Investigation Confidentiality: While the policy provides that confidentiality must be maintained throughout the investigation, it is silent on the requirement that, upon completion of the investigation, case files, and information related to investigations of complaints or misconduct shall be maintained separately from personnel records. The files must also be secured at all times, and not released to any source without prior approval of the Sheriff, unless otherwise provided by law.</p>	<p>This recommendation fails to take into account the laws which prevent Sheriff from imposing such control or even attaching a designation of "confidential" when done. Fails to take into account practice of maintaining records in IAPro, not personnel files.</p>	<p>See Sheriff's Office response.</p>	
<p>Recommendation #16 – Staffing: The Sheriff's Office should consider increasing staffing size in the IIU to ensure timely and effective investigations. This increase in staffing should include additional investigators, including Lieutenants, to relieve the Commander of classification duties, and to allow force investigators to properly handle use of force incidents.</p>	<p>Agree that staffing is an ongoing challenge impacting ability to implement some changes; this appears to be a standard suggestion not prepared for Sheriff's Office, which does not have Lieutenants and has specific legal obligations not completely consistent with this recommendation.</p>	<p>Unable to implement without supplemental budget to fund. Other recommended changes by the workgroup are intended to assist with timely investigation.</p>	<p>See Sheriff's Office response</p>

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<p>Recommendation #17 – Administrative Investigation Training: Sheriff's Office personnel conducting misconduct investigations, whether assigned to the Internal Investigations Division, an Area Command, or elsewhere, should receive at least twenty-four (24) hours of initial training in conducting misconduct investigations and shall receive at least eight (8) hours of training each year. The training shall include instruction on Sheriff's Office policies and protocols on taking compelled statements and conducting parallel administrative and criminal investigations</p>	<p>Agree that additional training can be useful, but should be related in scope and hours of training to the nature of investigative work; IIU conducts investigations with greater complexity and scope.</p>	<p>Work group developing recommendations for training.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval
<p>Recommendation #18 – Force Investigation: The Sheriff's Office should consider adding "Force Investigators" to the IA Unit. Due to the significance of Use of Force incidents, and the need for agencies to ensure thorough and effective review of force incidents, designated force investigators will limit inconsistency in the manner in which these investigations are conducted. Before performing force investigations, IIU personnel shall receive use of force investigation training.</p>	<p>Work group proposes a different approach to force incidents; moving force investigations to the ATU, which may require additional staffing; serious force already with outside investigators at SPD.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval
<p>Recommendation #19 – Classification of Complaints: The Sheriff's Office currently only has two classifications for received complaints: Major and Minor. The definitions for these two categories are extremely vague and do not provide adequate guidance to the individual assigning categories to the complaint. It is clear from our review that only "major" investigations receive any type of discipline and there is no clear definition or example of what constitutes a Major violation. The Sheriff's Office should establish a new classification system that limits discretion and increases the range for discipline across all complaints.</p>	<p>Agree the policy should be revised to provide categories with examples. Proposal for revision divides the complaints into "CARE" violations (Major violations), Section investigations (Minor), and supervisor intake.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval

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<p>Recommendation #20 - Consistency of IA-Pro files: In Section E.3 above, we addressed multiple areas of concern regarding consistency. These areas included the following recommendations:</p> <ul style="list-style-type: none"> • Clarification on how the complaint was filed and who the complainant was, with accurate contact information; • Consistency with data placed in the IA-Pro system may require additional training to supervisors; • Consider an independent Internal Investigations Report to ensure all necessary information is contained in the files; • Ensure completion and proper completion of the Preliminary Complaint Form and Commanders Oversight Forms; • Consider additional training on how to utilize all available investigative steps and identify expectations regarding thorough and complete investigations; • Require consistency with regard to communication with the complainant; • Require better consistency on how the complaints are categorized; and • Consider using a Conflict of Interest form. 	<p>This recommendation incorporates earlier recommendations; the work group recommends ongoing oversight to make use of IAPro more consistent for all IIU investigators. Note that data reviewed by consultant does not reflect current practices, which are monitored by new leadership. Workgroup recommends working with IAPro to address some reporting issues.</p>	<p>Draft recommendations are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval

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<p>Recommendation #21 – Consider removing NIM Category: NIM complaints appear to be the catch all of complaints that are handled inconsistently. Some of the NIM complaints had detailed investigations by the supervisors and some had none at all. It was unclear how the decision to make it a NIM was made. The Sheriff's Office should consider different categories including service complaints for a more streamlined investigation that may lead to a sustained finding and discipline. There must be some clarity that the classification of the complaint is based on the offense alleged when the complaint is received.</p>	<p>Work group recommends requiring consistency with NIM classification by IIU Commander to address performance standards versus alleged misconduct; NIM remains an accurate way to describe some reports of alleged allegation because, if used correctly, it is a complaint about conduct that, even if true, violates no policy.</p>	<p>No changes to implement in policy; work group recommends IIU Commander verify their investigators understand the proper use of NIM and track use of NIM to make sure it is properly applied.</p>	<p>See Sheriff's Office response</p>
<p>Recommend #22- SAL should better define "minor infraction": While a SAL may be an effective means within IA-Pro to document "minor infractions," the classification must be based on the seriousness of the complaint at the time it is received, not after it is investigated. The Sheriff's Office must abide by the definition of a SAL when determining the category of the complaint, which will ensure that consistency of classifications.</p>	<p>Agree the policy should be revised to clarify categories; current proposal divides the complaints into "CARE" violations (Major violations), Section (Minor) investigations, and supervisor intake. The latter is the least serious, Supervisor Intervention-allegation if true, would only result in training or counseling. Monitoring for consistency is ongoing under new leadership.</p>	<p>Draft revisions are pending.</p>	<ul style="list-style-type: none"> * Finish drafting revisions * Present to Unions for input * Present to Sheriff for approval

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<p>Recommendation #23 – Internal Investigations template report should be used for consistency: The Sheriff's Office should consider the use of an IA Report template to ensure consistency throughout all investigations. The use of programs like IA-Pro, without an effective reporting system, results in incomplete and inconsistent files. In all categories – and more importantly in IIU files - there should be a detailed report where the case is outlined. An Example of a recommended report template is attached as Appendix A.</p>	<p>Agree that a template should be used for investigative and findings reports and current investigators are using a protocol which is a case summary.</p>	<p>Work group to discuss if case summary needs revision.</p>	<ul style="list-style-type: none"> * Discuss possible revisions on summary format, and if revised: * Present to Unions for input * Present to Sheriff for approval
<p>Recommendation #24 – Consider using a conflict form discussed in the report also called a Recusal Form. This will force the investigator to identify any conflict before they begin the investigation. An Example of a recommended report template is attached as Appendix B.</p>	<p>No actions recommended, already addressed by policy and practice.</p>	<p>See Sheriff's Office response.</p>	