



The Briefing Board

Number 22-46
September 19, 2022

IMMEDIATE POLICY CHANGES
CP-5, TRUTHFULNESS
GH-2, INTERNAL INVESTIGATIONS
GH-3, POLYGRAPH PROCEDURES AND DOCUMENTS
GC-17, EMPLOYEE DISCIPLINARY PROCEDURES

Employees are **required** to read the Office Policies below to ensure they are familiar with the changes that have been made. All Employees are **required** to log into [TheHUB](#), to review and acknowledge an understanding of these Office Policies within **30 days**.

Employees are reminded that *The Briefing Board* has the same force and effect of Office Policy. Division commanders shall ensure that employees have access to a copy of this *Briefing Board* announcement. Policy changes should be discussed during shift briefings, as specified in [Office Policy GB-2, Command Responsibility](#).

CP-5, TRUTHFULNESS

Effective immediately, Office Policy CP-5, *Truthfulness*, is revised as follows (Changes indicated in ~~strikethrough~~ and **UPPER-CASE BOLD UNDERLINED** text):

DEFINITIONS

Official Investigation: An official examination by a supervisor, an internal affairs investigator, **OR A** criminal investigator, ~~or a polygraph examiner~~ into alleged employee misconduct that relates to or may affect an employee's position with the Office. The Office has two types of investigations that are used to examine these allegations:

1. **Administrative Investigation:** An investigation conducted into apparent violations of Office Policy. Sustained allegations for an administrative investigation provide the basis for the imposition of discipline according to the Discipline Matrices and the Categories of Offenses, as specified in Office Policy GC-17, *Employee Disciplinary Procedures*.
2. **Criminal Investigation:** An investigation by a criminal investigator into an allegation of employee criminal misconduct. These include the process of collecting information (or evidence) about a crime in order to: 1) determine if a crime has been committed; 2) identify the perpetrator; 3) apprehend the perpetrator, and 4) provide evidence to support a conviction in court.

The following does not constitute an official investigation or investigative interview: (a) questioning in the normal course of duty, counseling or instruction, or an informal verbal admonishment by, or other routine or unplanned contact with a supervisor or other law enforcement officer; or (b) preliminary questioning to determine the scope

of the allegations or if an investigation is necessary. However, such counseling, instructions, verbal admonishments, other contacts, and preliminary questioning are covered by and subject to the truthfulness standards found in this Office Policy.

PROCEDURES

2. **Limited Exceptions:** This Office Policy shall not apply to an IA investigator, a criminal investigator, or a polygraph examiner while gathering information or evidence during an ongoing investigation, **OR DURING A POLYGRAPH EXAMINATION INTERVIEW.**

A. It is recognized that an IA investigator **OR** a criminal investigator, ~~or a polygraph examiner~~ may mislead a ~~subject~~ **PERSON** as part of an investigative or interview technique.

B. **IT IS RECOGNIZED A POLYGRAPH EXAMINER MAY MISLEAD A PERSON AS PART OF AN INTERVIEW TECHNIQUE DURING A POLYGRAPH EXAMINATION OF:**

- 1. A PERSON PARTICIPATING IN A PRE-EMPLOYMENT OR PRE-APPOINTMENT INTERVIEW;**
- 2. AN EMPLOYEE AS PART OF A CRIMINAL INVESTIGATION; OR**
- 3. A SUSPECT, WITNESS, OR AN INVESTIGATIVE LEAD AS PART OF A CRIMINAL INVESTIGATION.**

GH-2, INTERNAL INVESTIGATIONS

Effective immediately, Office Policy GH-2, *Internal Investigations*, is revised as follows (Changes indicated in ~~strikethrough~~ and **UPPER-CASE BOLD UNDERLINED** text):

DEFINITIONS

Official Investigation: An official examination by a supervisor, an internal affairs investigator, **OR A** criminal investigator, ~~or a polygraph examiner~~ into alleged employee misconduct that relates to or may affect an employee’s position with the Office. The Office has two types of investigations that are used to examine these allegations:

1. **Administrative Investigation:** An investigation conducted into apparent violations of Office Policy. Sustained allegations for an administrative investigation provide the basis for the imposition of discipline according to the Discipline Matrices and the Categories of Offenses, as specified in Office Policy GC-17, *Employee Disciplinary Procedures*.
2. **Criminal Investigation:** An investigation by a criminal investigator into an allegation of employee criminal misconduct. These include the process of collecting information (or evidence) about a crime in order to: 1) determine if a crime has been committed; 2) identify the perpetrator; 3) apprehend the perpetrator, and 4) provide evidence to support a conviction in court.

The following does not constitute an official investigation or investigative interview: (a) questioning in the normal course of duty, counseling or instruction, or an informal verbal admonishment by, or other routine or unplanned contact with a supervisor or other law enforcement officer; or (b) preliminary questioning to determine the scope of the allegations or if an investigation is necessary. However, such counseling, instructions, verbal admonishments, other contacts, and preliminary questioning are covered by and subject to the truthfulness standards found in Office Policy CP-5, Truthfulness.



PROCEDURES

11. ~~Polygraph Examination~~

- A. ~~A principal may be subject to a polygraph examination if, during the interview, the principal makes a statement that differs from other information relating to the investigation that is known to an investigator and reconciling that difference is necessary to complete the investigation.~~
1. ~~In an administrative polygraph examination, an employee shall be informed of the following:~~
- a. ~~Answers cannot be used against the employee in any subsequent criminal investigation; hence, there is no infringement of Fifth Amendment rights;~~
 - b. ~~Refusal to take a polygraph examination shall be grounds for dismissal;~~
 - c. ~~Examination questions shall relate specifically to the incident being investigated; and~~
 - d. ~~There is no right to counsel during a polygraph examination.~~
2. ~~The employee shall be provided a copy of the video and audio recording of the complete polygraph procedure within three business days following the completion of the polygraph examination.~~
- a. ~~Employees shall sign an *Acknowledgement of Receipt* form when provided a copy of the polygraph recording. This receipt shall be maintained by Polygraph Services.~~
 - b. ~~Employees shall not discuss or share the polygraph recording with anyone other than those specified in their *Notice of Investigation*.~~
- B. ~~The PSB Commander or the Sheriff or designee, shall give approval for a polygraph examination. Polygraph examinations shall be administered, as specified in Office Policy GH-3, *Polygraph Procedures and Documents*.~~
- C. ~~No *Notice of Investigation* is required for a polygraph examination.~~

12. **Employee Right to an Observer:**

- M. The right to an observer does not apply to an interview that is:
- 1. In the normal course of duty, counseling, instruction, an informal verbal admonishment, or other routine or unplanned contact with a supervisor or any other employee;
 - 2. During a preliminary inquiry to determine the scope of the allegations; **OR**
 - 3. In the course of a criminal investigation; ~~or,~~
 - 4. ~~In the course of a polygraph examination.~~

14. **Examinations and Tests:** The *Garrity Warning* shall be given to a principal, and the *Notice of Investigation* shall be given to any employee, prior to any examination or test, ~~except when administering~~

~~a polygraph examination which does not require *Notice of Investigation* prior to the examination. Photographs, lineups, and psychological or physical examinations may be required in an administrative investigation and shall be authorized by the PSB Commander.~~

- A. If it appears likely that an employee shall be required to submit to examinations or tests during the course of an administrative investigation, the employee shall be advised that submission is compulsory. The required examinations or tests shall be incident-specific and narrowly and directly related to the employee's performance or non-performance of duty, their fitness for duty, or the alleged misconduct.
- ~~B. Polygraph examinations shall be administered, as specified in Office Policy GH-3, *Polygraph Procedures and Documents*. The results of a polygraph examination shall not be the basis for disciplinary action unless other evidence or information exists.~~
- BC. With proper justification, a request for a physical or psychological examination of an employee may be approved. The employee shall cooperate with the examiner and submit to all laboratory or psychological tests. Drug testing procedures are specified in Office Policy GC-21, *Drug, Medication, and Alcohol Testing*.

GH-3, POLYGRAPH PROCEDURES AND DOCUMENTS

Effective immediately, Office Policy GH-3, *Polygraph Procedures and Documents*, is revised as follows (Changes indicated in ~~strikethrough~~ and **UPPER-CASE BOLD UNDERLINED** text):


POLICY

It is the policy of the Office to maintain a Polygraph Services Section for the purpose of conducting polygraph examinations for Office **PRE-EMPLOYMENT OR PRE-APPOINTMENT** background investigations, and ~~administrative and~~ criminal investigations.

PROCEDURES

- ~~3. **Administrative Investigation Polygraph Examinations:** In the course of an administrative investigation, the polygraph examination of a principal, witness, or investigative lead may be required if the employee makes a statement that differs from other information relating to the investigation that is known by the Office and reconciling the difference is necessary to complete the investigation. Polygraph examinations resulting from the investigation shall only be conducted with the approval of the Professional Standards Bureau (PSB) Commander or the Sheriff.~~
 - ~~A. Criteria for the use of a polygraph examination in an administrative investigation includes allegations of criminal or serious misconduct.~~
 - ~~B. Any employee who is a principal in an administrative investigation may request a polygraph examination.~~
 - ~~C. The right of an observer does not apply during the course of a polygraph examination.~~
 - ~~D. Prior to the administration of an administrative polygraph examination, the employee shall be informed of the following:~~

- ~~1. Answers cannot be used against the employee in any subsequent criminal investigation; hence, there is no infringement of Fifth Amendment rights;~~
 - ~~2. Refusal to take a polygraph examination shall be grounds for dismissal;~~
 - ~~3. Examination questions shall relate specifically to the incident being investigated; and~~
 - ~~4. There is no right to counsel during a polygraph examination.~~
 - E. The employee is required to sign a *Statement of Release and Consent to Polygraph Examination* form. Failure to sign constitutes a refusal to take the polygraph examination and is grounds for dismissal.
 - F. The employee shall be provided a copy of the video and audio recording of the complete polygraph procedure within three business days following the completion of the polygraph examination.
 1. Employees shall sign an *Acknowledgement of Receipt* form when provided a copy of the polygraph recording. This receipt shall be maintained by Polygraph Services Section.
 2. Employees shall not discuss or share the polygraph recording with anyone other than those specified in their *Notice of Investigation*.
 - G. No *Notice of Investigation* is required for a polygraph examination.
4. **Criminal Investigation Polygraph Examinations Involving Office Employees:** When an employee is requested to take a polygraph examination in a criminal investigation, the employee shall be informed they have the right to accept or refuse the polygraph.
- A. If an employee consents to a criminal polygraph examination, they shall be allowed to confer with legal counsel of choice, both prior to and following the polygraph examination.
 - B.** No legal counsel shall be present during the polygraph examination. Information gathered during the examination may be used to aid in the investigation.
 - ~~B. If an employee does not consent to a criminal polygraph examination, the Sheriff or designee may choose to conduct the investigation administratively, at which time the employee shall be advised of the Garrity Warnings, as specified in Office Policy GH 2, *Internal Investigations*. The provisions of an administrative investigation polygraph examination shall then become applicable.~~
12. **Records Retention:** Polygraph records shall be maintained in compliance with federal and state laws, or any lawful orders issued by the Superior Court. Record retention schedules shall be maintained in compliance with the Arizona State Department of Library, Archives, and Public Records policies.
- C. The Office shall retain all records of polygraph examinations administered for administrative investigations while the investigations are still active, being reviewed for potential disciplinary action, or under appeal, in accordance with normal merit proceedings. All records of polygraph examinations administered for administrative investigations resulting in a **sustained finding** and discipline, shall be retained for five years after the employee separates from employment with the Office. All other records shall be retained for three years after the investigation is closed. **IN ACCORDANCE WITH ARS 38-1108, AND EFFECTIVE SEPTEMBER 22, 2022, THE OFFICE NO LONGER CONDUCTS EMPLOYEE POLYGRAPH EXAMINATIONS RELATED TO ADMINISTRATIVE INVESTIGATIONS. RETENTION REQUIREMENTS SHALL**

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	POLYGRAPH PROCEDURES AND DOCUMENTS	Policy Number GH-3 Effective Date 08-04-21
Related Information ARS 13-706 GC-12, <i>Hiring and Promotional Procedures</i> GH-2, <i>Internal Investigations</i> GJ-7, <i>Criminal Investigations: Operations</i> GJ-26, <i>Sheriff's Reserve Deputy Program</i> GJ-27, <i>Sheriff's Posse Program</i>	Supersedes GH-3 (10-24-11)	

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures for the use of polygraph examinations and the retention of associated documents.

Although this Office Policy refers to employees throughout, this Office Policy also applies with equal force to all volunteers. Volunteers include, but are not limited to, reserve deputies and posse members.

POLICY

It is the policy of the Office to maintain a Polygraph Services Section for the purpose of conducting polygraph examinations for Office background investigations, and administrative and criminal investigations.

DEFINITIONS

Applicant: A person who has filed an application with Maricopa County Human Resources for employment.

Employee: A person currently employed by the Office in a classified, unclassified, contract, or temporary status.

Garrity Warning: A notice of an employee's obligations and rights regarding compelled statements during an administrative investigation.

Investigative Lead: An individual believed to have information or facts relevant to the matter under investigation.

Misconduct: Any violation of Office Policy or procedure; federal, state, or local criminal or civil law; constitutional violations, whether criminal or civil; administrative rules; or Office regulations.

Criminal Misconduct: Misconduct by an employee that a reasonable and trained supervisor or internal affairs investigator would conclude could result in criminal charges due to the apparent circumstances of the misconduct.

Minor Misconduct: Conduct that, if sustained, would result in discipline or corrective action less severe than a suspension.

Minor misconduct, while a violation of Office Policy, can often be addressed with supervisor initiated intervention intended to improve a situation, or prevent a potential negative work performance situation from progressing into a misconduct investigation. To address these employee behaviors, supervisors may

initiate an intervention method, as specified in Office Policy GH-5, *Early Identification System*, to include: Squad briefing; meeting with supervisor; employee services; supervisor ride-along/work along; training; supervisor evaluation period; action plan; meeting with the commander; re-assignment; and coaching. The use of intervention shall only be used to address employee minor misconduct or behavior that does not exceed a Category 1, First or Second Offense or a Category 2, First Offense, and which has not been received by the Office as an External Complaint or has not already been assigned to the Professional Standards Bureau (PSB).

Serious Misconduct: Conduct that, if sustained, would result in discipline of a suspension, demotion, or dismissal.

Principal: An employee identified as the primary focus of an administrative investigation and against whom a complaint of misconduct has been made. An administrative investigation may have multiple principals.

Volunteer: A person who performs hours of service for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered. An employee may not volunteer to perform the same, similar, or related duties for the Office that the employee is normally paid to perform.

Witness: An individual who has observed an incident.

PROCEDURES

1. **Polygraph Examiner Certification:** All Office polygraph examiners shall be graduates of an institution recognized by the American Polygraph Association and certified in accordance with that institution's guidelines.
2. **Pre-Employment and Pre-Appointment Polygraph Examinations:** The Office Human Resources Bureau Chief may authorize the use of polygraph examinations for pre-employment and pre-appointment background investigations. Pre-employment background investigations are conducted for compensated Office positions. Pre-appointment background investigations are completed for non-compensated Office positions. The Polygraph Services Section Supervisor shall report directly to the Pre-Employment Services Division Commander or designee regarding pre-employment and pre-appointment polygraph results and records.

- A. The Polygraph Services Section shall conduct polygraph examinations of individuals applying to be hired for specified Office positions and maintain a record of the results, as specified in the Pre-Employment Services Division Operations Manual.
1. Applicants will be asked the same series of examination questions, approved by the Sheriff or designee.
 2. Applicants shall be advised of the examination procedures and their right to refuse the polygraph examination. The applicant shall be required to sign a *Statement of Release and Consent to Polygraph Examination*. Failure to sign shall constitute a refusal to take the polygraph examination and terminate the hiring process.
- B. A reserve deputy must meet the same pre-employment standards as those required of compensated deputies, as specified in Office Policy GJ-26, *Sheriff's Reserve Deputy Program*.
- C. Posse members who seek intermediate posse status, shall be required to pass a polygraph examination, as specified in Office Policy GJ-27, *Sheriff's Posse Program*.

3. **Administrative Investigation Polygraph Examinations:** In the course of an administrative investigation, the polygraph examination of a principal, witness, or investigative lead may be required if the employee makes a statement that differs from other information relating to the investigation that is known by the Office and reconciling the difference is necessary to complete the investigation. Polygraph examinations resulting from the investigation shall only be conducted with the approval of the Professional Standards Bureau (PSB) Commander or the Sheriff.
 - A. Criteria for the use of a polygraph examination in an administrative investigation includes allegations of criminal or serious misconduct.
 - B. Any employee who is a principal in an administrative investigation may request a polygraph examination.
 - C. The right of an observer does not apply during the course of a polygraph examination.
 - D. Prior to the administration of an administrative polygraph examination, the employee shall be informed of the following:
 1. Answers cannot be used against the employee in any subsequent criminal investigation; hence, there is no infringement of Fifth Amendment rights;
 2. Refusal to take a polygraph examination shall be grounds for dismissal;
 3. Examination questions shall relate specifically to the incident being investigated; and
 4. There is no right to counsel during a polygraph examination.
 - E. The employee is required to sign a *Statement of Release and Consent to Polygraph Examination* form. Failure to sign constitutes a refusal to take the polygraph examination and is grounds for dismissal.
 - F. The employee shall be provided a copy of the video and audio recording of the complete polygraph procedure within three business days following the completion of the polygraph examination.
 1. Employees shall sign an *Acknowledgement of Receipt* form when provided a copy of the polygraph recording. This receipt shall be maintained by Polygraph Services Section.
 2. Employees shall not discuss or share the polygraph recording with anyone other than those specified in their *Notice of Investigation*.
 - G. No *Notice of Investigation* is required for a polygraph examination.
4. **Criminal Investigation Polygraph Examinations Involving Office Employees:** When an employee is requested to take a polygraph examination in a criminal investigation, the employee shall be informed they have the right to accept or refuse the polygraph.
 - A. If an employee consents to a criminal polygraph examination, they shall be allowed to confer with legal counsel of choice, both prior to and following the polygraph examination. No legal counsel shall be present during the polygraph examination. Information gathered during the examination may be used to aid in the investigation.
 - B. If an employee does not consent to a criminal polygraph examination, the Sheriff or designee may choose to conduct the investigation administratively, at which time the employee shall be advised of

the Garrity Warnings, as specified in Office Policy GH-2, *Internal Investigations*. The provisions of an administrative investigation polygraph examination shall then become applicable.

5. **Criminal Investigation Polygraph Examinations of Suspects, Witnesses, and Investigative Leads:** During the course of a criminal investigation it may be determined that a suspect, witness, or investigative lead should be requested to submit to a polygraph examination.
 - A. The case should be reviewed by the criminal investigator and the polygraph examiner to determine the best examination questions for the individual taking the polygraph examination.
 - B. After first ascertaining that the suspect, witness, or investigative lead has consented to a polygraph examination, the assigned criminal investigator shall submit a request for a polygraph examination, through their immediate supervisor.
 - C. The polygraph examination shall be scheduled and conducted in a timely and appropriate manner.
 - D. When applicable, the suspect, witness, or investigative lead to be examined shall be advised of their Miranda rights by the assigned criminal investigator, as specified in Office Policy GJ-7, *Criminal Investigations: Operations*.
 - E. The suspect, witness, or investigative lead shall be advised by the polygraph examiner of their rights concerning polygraph examinations and shall be required to sign a *Statement of Release and Consent to Polygraph Examination* form. Failure to sign shall constitute a refusal to take the polygraph examination.
 - F. When the suspect, witness, or investigative lead is in custody, the criminal investigator will have custodial responsibility and shall be present in the waiting area outside the polygraph suite during the examination.
6. **Polygraph Examinations of Juveniles:** Juveniles, including those who have been remanded to be tried as adults, shall have the written approval of a parent or guardian prior to conducting a polygraph examination. The criminal investigator shall be responsible for obtaining the written approval. If the juvenile has been referred to the custody of the Juvenile Court, a court order shall be obtained prior to the polygraph examination. The suitability of examining a juvenile shall be determined by the polygraph examiner, with the approval of the Polygraph Services Section Supervisor, following a review of the case and an interview of the juvenile.
7. **Conduct During a Polygraph Examination:** Polygraph examiners shall treat individuals with respect and courtesy. The polygraph examiner shall notify the Polygraph Services Section Supervisor of any individual becoming rude or abusive for consideration of ceasing the examination.
8. **Rescheduling:** Rescheduling of a polygraph examination will be done at the discretion of the Polygraph Services Section Supervisor.
9. **Allegations from Inmates:** In the event an allegation is made by an inmate against an Office employee, the inmate may be asked to submit to a polygraph examination. If the inmate agrees to the examination, the Sheriff or designee may take steps to ensure the security, validity, and integrity of the examination through cooperative prearrangement with the respective jail facility commander.
10. **Security:** All information surrounding a polygraph examination is highly sensitive and confidential in nature. All polygraph examination records shall be maintained in a secure location.
 - A. Access to these records will be limited and shall remain confidential to the extent permitted by law.

- B. All data and reports from a polygraph examination of a deputy sheriff or a detention officer are confidential and may only be used for employment, certification, or reactivation of certification purposes, or the administrative matter for which a polygraph was administered, including other ancillary matters.
 - C. All other uses are prohibited.
11. **Polygraph Database:** The Polygraph Services Section shall maintain an internal database containing the polygraph subject's name and the date of the examination. This information shall be retained, as specified in this Office Policy.
12. **Records Retention:** Polygraph records shall be maintained in compliance with federal and state laws, or any lawful orders issued by the Superior Court. Record retention schedules shall be maintained in compliance with the Arizona State Department of Library, Archives, and Public Records policies.
- A. All data and reports of polygraph examinations administered for pre-employment purposes, shall be retained by the Human Resources Bureau.
 - 1. All records of polygraph examinations administered for pre-employment purposes, in which a deputy applicant **was not hired**, shall be retained for three years after the position is filled or abandoned.
 - 2. All other applicant records, other than a deputy applicant, in which the applicant **was not hired or appointed**, shall be retained for two years and six months after the position is filled or abandoned.
 - B. All records of polygraph examinations administered for pre-employment purposes, in which an applicant **was hired or appointed**, shall be retained for five years after the employee separates from employment with the Office.
 - C. The Office shall retain all records of polygraph examinations administered for administrative investigations while the investigations are still active, being reviewed for potential disciplinary action, or under appeal, in accordance with normal merit proceedings. All records of polygraph examinations administered for administrative investigations resulting in a **sustained finding** and discipline, shall be retained for five years after the employee separates from employment with the Office. All other records shall be retained for three years after the investigation is closed.
 - D. The records of polygraph examinations administered for criminal investigations of misdemeanor offenses are retained for ten years. The records for felony offenses are retained for 25 years, with the exception of those felonies designated as serious offenses, as specified in ARS 13-706(F)(1), which are retained for 99 years. All polygraph charts will be destroyed after two years, unless requested by the court to be maintained longer.