

SANTA CLARA COUNTY: OFFICE OF CORRECTION AND LAW ENFORCEMENT MONITORING

Report on the Corruption of a Sheriff's Office Internal Investigation

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Introduction and Background

In 2022, OCLEM published its report of the Andrew Hogan matter, about an incarcerated person who had suffered serious self-harm and the shortcomings that characterized the Sheriff's Office failure to provide proper aid to him.¹ A significant concern identified in the report was the favored treatment provided to an involved supervisor who was initially named in an Internal Affairs investigation that was looking into the incident, only to have that case inactivated. That person's support of then-Sheriff Smith's re-election campaign was understood to be a factor in the premature ending of that inquiry.

During OCLEM's review, we were advised of another case in which improper favoritism had seemingly caused another Internal Affairs investigation to fall out of process. We received a request from the Santa Clara County Board of Supervisors to review that additional matter and publicly report the findings.

This report is intended to be responsive to that request. As explained in detail below, OCLEM's review of this case found that the Sheriff's Office's internal investigative process was in fact corrupted by then-Undersheriff Rick Sung, apparently because of the personal and political connection between the subject employee of the investigation and then-Sheriff Laurie Smith.

As the report describes, the then-Undersheriff's instruction to terminate the investigation significantly delayed the eventual accountability. Worse, the halting of the investigation provided the subject civilian non-sworn employee² the opportunity to escape accountability for serious transgressions in the workplace, which had involved victimization of both co-workers and the public. As detailed below, accountability would likely never have been achieved were it not for another employee's complaint – several months later – about the lack of proper resolution.

As indicated in this report, as the prior Sheriff's administration was drawing to its close, the subject employee was finally advised of the Sheriff's Office intent to charge him with

¹ That report can be found at:

<https://board.sccgov.org/sites/g/files/exjcpb936/files/document/Final%20Report%20on%20the%20Andrew%20Hogan%20Incident%20-%20October%202022.pdf>

² The individual was not a sworn deputy nor correctional officer but a civilian employee who had regular contact with the public.

numerous policy violations. The employee retired from his position shortly after Sheriff Smith left office, but it was not until Sheriff Jonsen assumed command of the organization that the employee was formally notified of the results and final disposition of the charges against him. This was a consequential delay of several months.

In short, this report demonstrates how executive-level interference with the agency's accountability process can undermine not only the operations of a law enforcement organization, but also the trust that its own employees have in their agency. The report further describes how allowing a subject employee to avoid accountability can lead to further victimization by giving that individual a sense of undeserved impunity. Finally, the report highlights the corrosive implications of a dynamic in which employees come to believe that their sincere complaints will not receive legitimate consideration.

The recommendations we made in the Hogan report were intended to ensure that cases are not "inactivated" in the ways they were in both that case and in this case.³ We offer an additional recommendation here that is designed to ensure that cases do not fall out of process and that inordinate delays in investigation and disposition of Internal Affairs cases, if any, are explained and documented.

The Allegations

[Allegation 1: Subject employee challenged a retired Sheriff's Office employee to a physical fight over social media.](#)

The first allegation received by Internal Affairs⁴ relating to the employee in question was from a retired Sheriff's Office employee, who complained that the subject employee had threatened him over social media and challenged him to a physical fight. The head of the Sheriff's Office Internal Affairs Division spoke to the complainant and obtained a screen shot of the social media interaction with the subject. Records indicate that several days later a Division lieutenant "talked to" the subject about him posting inappropriate material on the social media platform.

On the day that the Division lieutenant counseled the subject, an administrative investigation was opened. Consistent with current Sheriff's Office protocols, the matter was forwarded to the subject employee's Division for handling. There, the case

³ Specifically, we recommended that: "The Sheriff's Office should write policy articulating the rare conditions under which an Internal Affairs investigation can be terminated prior to its conclusion, requiring a written memorandum setting out the reasons, and approval from the Sheriff."

⁴ Internal Affairs handles all significant allegations of misconduct involving Sheriff's employees, including civilians.

languished for over a month while the assigned Division lieutenant⁵ undertook virtually no investigative work into the allegations. The head of Internal Affairs (a lieutenant) emailed that individual regarding the complaint and the need for documented findings. The Division lieutenant replied by asking “What complaint?”

The same day that the IA lieutenant emailed the Division lieutenant, a memorandum was prepared by the Division lieutenant in response that purported to resolve the complaint. The summary noted that the current employee had posted a comment and had a digital conversation with the retired employee and said he wanted to meet him in the parking lot after work to this effect:

So, one of these days why don't you stop by around 5:00 pm and we will have a nice little “chat” in the parking lot?

According to the memorandum, the employee told the lieutenant that he had wanted to talk with the retired employee rather than fight with him and apologized to the lieutenant. Per the memorandum, the Division lieutenant then advised the employee that word usage could mean different things and directed him to read General Order 15.09 (which sets out Sheriff's Office policy relating to social networking). However, the Division lieutenant accepted the employee's contention that his words were not intended to be a physical challenge.

When the Internal Affairs lieutenant asked about the complainant's perspective on the incident, the Division lieutenant indicated that he had not contacted the complainant; his supposed rationale was that the retiree would say that they were covering up the complaint for political gain.⁶ The Division lieutenant's explanation expressly called out the political dynamics of the matter, but the decision to refrain from full fact-gathering was a somewhat inexplicable response.

[Allegation 2: Subject employee threatened a fellow Sheriff's Office employee at the workplace and challenged him to a physical fight.](#)

[Description of Incident and Reporting Memorandum](#)

Within a few days of Internal Affairs receiving the first allegation, a sergeant reported to his Division an altercation between the same subject employee and a fellow employee at the workplace. According to the sergeant who prepared an incident memorandum,

⁵ This lieutenant is no longer employed by the Sheriff's Office.

⁶ On the origination sheet, Internal Affairs had also listed another individual as a witness to the allegation, but apparently the assigned lieutenant did not contact that individual either. As explained below, the emergence of a subsequent and similar allegation prompted the revisiting of this case; it was folded into Allegation 2 and reassigned for handling by Internal Affairs.

the fellow employee had told the subject employee to “stop kissing another employee’s ass.” The sergeant advised that the subject then walked over and stood over his colleague, used a raised voice and told the fellow employee that he would “kick his ass” and challenged him to a fight. According to the memorandum, the fellow employee did not want to press charges but wanted the subject employee “written up” for his conduct.

The memorandum explained that the reporting sergeant was offsite when the event occurred, but that the fellow employee had called to notify him of the altercation. The sergeant reported that he then called another employee at the work site to ensure that the two employees were separated. The sergeant further indicated that he then talked with the subject employee and asked him if he wanted to relocate to another work site or take the remainder of the day off. The subject employee opted to take personal leave for the remainder of the shift.

When the sergeant arrived at the worksite, he indicated that he talked to a witness employee who confirmed that the subject employee had become irate with the other person and had made the quoted physical threat.

According to the sergeant, another witness employee said that the subject employee then told the fellow employee:

Do you want to go home? Do you want to leave this [work site] because I can make that happen? And I don’t have to kiss anyone’s ass.

This employee advised that the fellow employee asked the subject employee to back up because he felt threatened, but the subject employee refused to do so. The subject employee then said to the fellow employee:

We can handle this. How do you want to handle this?

This witness employee interpreted these comments as a challenge to fight. According to this employee, the subject employee had spoken to the fellow employee in a raised voice for approximately four minutes while the general public was in close proximity and within hearing distance. According to this witness employee, the subject employee “continued to chip” with the fellow employee, at one point stating, “You know who I am.”

The witness employee said that the fellow employee left to call the sergeant. The witness employee told the sergeant that the subject employee apologized to him and another employee but not the employee he had threatened and challenged to fight.

The sergeant reported that he then talked to the employee who had been threatened and challenged to fight. The employee acknowledged that he had been giving the subject employee a hard time verbally when the subject employee “blew up,” came over and started yelling at him. The employee felt that the subject employee was about to hit him and felt unsafe. The employee said he did not want to press criminal charges but

did not want to work with the subject employee anymore and wanted him written up for his actions.

The sergeant further reported that the employee who had been threatened told him that a few days prior, he thought he heard the subject employee refer to a member of the public with a derogatory term for a gay person. The employee advised the sergeant that there was a pattern with the subject employee losing his temper and “getting into it” with his co-workers. The employee recounted other previous times in which the subject employee had challenged people to fight in the parking lot.

The sergeant wrote that an additional employee advised that he had warned the subject employee that his actions were creating a hostile work environment.

The sergeant wrote that in the recent past he had been required to “play mediator” between the subject employee and yet another employee. According to the sergeant’s report, the subject employee told him that with regard to getting along with co-workers: “You cannot teach an old dog new tricks.”

The sergeant recommended that the subject employee be reassigned to another work site.

Opening of Formal Internal Affairs Investigation

Approximately ten weeks after this second incident, Internal Affairs opened a formal administrative investigation into the alleged “threat to assault” allegations. There is no documentation in the file that explains the extended delay in initiating the investigation. On the same day the investigation was opened, the subject employee was transferred to another work site. And, pursuant to County protocols, Internal Affairs cross-reported the allegation to an Investigator with the County’s Equal Opportunity Department (“EOD”). Finally, the new allegation caused Internal Affairs to re-engage on the earlier allegation relating to the threat on social media; the plan was to formally interview the subject employee regarding both allegations.

On that same day, the then-Undersheriff wrote an email to Internal Affairs and the Division lieutenant noting that the affected employee did not want anything done other than relocating the subject employee and writing him up. The Undersheriff further wrote that he didn’t “see any urgency regarding this investigation. Will leave up to IA to complete based on workload.”

IA Interview of Victim Employee

Two days later, the IA investigator assigned to the cases and the investigator from EOD interviewed the fellow employee from Allegation 2, who alleged he had been threatened

and challenged to fight by the subject employee.⁷ In addition to recounting the event, the employee noted that, two years prior, the subject employee had gotten into an argument with yet another employee. As a result, an uninvolved employee had to step in to prevent a physical altercation. According to the employee, the subject employee then called the intervening employee a “loser.”

The employee also noted that two years prior a member of the public had walked by, and the subject employee remarked: “that’s a gay ass shirt.” According to the employee, the man looked at the subject employee with a shocked look on this face.

The employee further indicated that the subject employee has a problem with making racial remarks.

The employee reported that in the prior year, the subject employee had witnessed the subject employee challenge yet another employee to a fight and suggested they go into the parking lot.

Finally, the employee stated that the prior year the subject employee had used a racial slur in referring to an Asian-American employee.

IA Interviews of First Witness Employees

A few days later, the Internal Affairs investigator separately interviewed two of the employees that the initial sergeant had referenced in his memorandum. Each was able to cite multiple instances in which the subject employee had engaged inappropriately with co-workers. Examples alleged by one or the other of these witnesses included the following:

- That on the date of the incident being investigated, the subject employee had threatened to “kick the ass” of the complainant – at a time when members of the public were present. He also allegedly told the man he had a bullet with his name on it.
- That the subject employee had challenged other employees (including one of the witnesses) on other occasions in the past, and that a supervisor was aware of these incidents but had not taken action.
- That the subject employee had disparaged the physical appearance of an Asian-American co-worker and had used an ethnic slur in referring to him.
- That the subject employee had been verbally abusive to one of the witness employees after that person intervened during a conflict between the subject employee and a member of the public.

⁷ The EOD investigator was contacted for this review and indicated he had no recollection or records of his participation in this notification or the subsequent interview. We have been advised that EOD has improved its recordkeeping protocols since this incident.

- That the subject employee was often impatient with members of the public and made inappropriate, insulting comments in dealing with them – which sometimes led to verbal altercations.

The witnesses also made references to the subject employee's personal connections to the then-Sheriff – a relationship that he allegedly mentioned often as a way of reminding people of his protected status.

[Internal Affairs Develops Investigative Plan](#)

Several days later, the IA investigator prepared notes and developed an investigative plan. The notes indicate that five additional witnesses and a sergeant needed to be interviewed. Tentative interview dates were set up and the investigator began to identify potential violations of policy based on the allegations raised by the Sheriff's Office witnesses.

[Internal Affairs Investigation Halted at Direction of Undersheriff](#)

The investigative file then went dormant for several months and the tentative interview dates for the additional witnesses passed by without any additional interviews being conducted. The next entry of the file indicates that, five months after the investigation was opened, the Undersheriff directed the Internal Affairs investigator to terminate his investigation. The rationale for closing the investigation is listed as the fact that the subject employee did not have any issues at the facility where he had been transferred. As a result, the additional witnesses or subject employee were never interviewed. The dispositions for the potential charges are listed as "no finding."

[Internal Affairs Investigation Re-Opened as a Result of New Altercation](#)

Sixteen months after the IA investigations were summarily closed at the direction of the then-Undersheriff, Internal Affairs was advised of a verbal altercation between a Sheriff's Office employee and the subject employee. In the supervisory report documenting the altercation, the sergeant wrote that the employee noted that she was aware of the earlier allegations but expressed a belief that, because the subject employee was a friend of the then-Sheriff, he was "protected," and therefore no action had been taken.

The subject employee also contacted Internal Affairs and indicated that he wanted to file a complaint against the employee as a result of the verbal altercation. During his recorded interview with IA, the subject employee admitted he may have called a fellow employee "the 'G' word" a few years prior. (This was a reference to a slur against Asians.) According to the subject employee, it came in the middle of a heated exchange between him and the other employee, a sergeant was present, and the subject employee apologized. The subject employee also stated that he could not say

with confidence that he had not used the “G” word on other occasions. The subject employee said that the employee who was involved in the verbal altercation with him was not fit for duty and stated: “I know the Sheriff wouldn’t want a person like that working here.”

A couple weeks after this interview, the IA lieutenant composed an email to the then-Undersheriff. In the email, the lieutenant suggested they needed to complete the earlier IA case that had been halted by the Undersheriff. The IA lieutenant advised that the involved employee alleged that the subject employee was being protected by Sheriff’s Administration – a perception that the agency would presumably want to refute.

The then-Undersheriff responded by reversing his earlier closure of the case and directing IA to reopen its now two-year old investigation against the subject employee. However, the Undersheriff instructed IA to conduct the investigation without EOD notification or involvement.

Two months after receiving this instruction, Internal Affairs interviewed the employee who had gotten into the most recent verbal altercation with the subject employee. In the context of that interview, she advised that she had heard that the subject employee had used “the ‘G’ word” against an Asian-American employee, that the sergeant had been informed, and that nothing had been done.

Two months after that interview, Internal Affairs began to interview the witness employees it had intended to interview years earlier.

IA Interviews of Additional Witness Employees

As with the original two witnesses whom Internal Affairs had interviewed at the time of its initial investigative work, other co-workers provided detailed and overlapping accounts that alleged repeated instances of belligerent, verbally abusive, and threatening behavior on the part of the subject employee. Individually and collectively, the witness interviews depicted a toxic combination of physical threats, disparaging remarks, racial and ethnic slurs, and contentious, disparaging treatment of the public.

Examples of specific allegations included the following:

- Multiple instances of the subject employee challenging co-workers to a fight in response to a conflict of some kind.
- Instances of the subject employee leering at female co-workers and making inappropriate comments.
- The subject employee telling a co-worker he would shoot him and then make sure he had a nice headstone at his funeral.
- The subject employee handing a co-worker a note that said, “I hope you die.”

Also emerging from these further interviews was a reinforcement of two other troubling themes that had been cited by witnesses during the initial investigation: that supervisors had been made aware of these concerns but had seemingly failed to take responsive action, and that the subject employee had regularly brandished his relationship with the then-Sheriff so as to reinforce his perceived impunity.

IA Interview of Subject Employee

The subject employee told Internal Affairs that he may have used a “profane” name in the past to refer to a fellow employee. As a result of the verbal conflict, he was advised by his supervisor to “talk it out.” According to the subject employee, he apologized, and the matter was resolved. The subject employee said that it was “nice” of the supervisor not making an Internal Affairs case out of the dispute.

The subject employee denied challenging anyone to a fight but only suggested that he and the fellow employee go outside and talk like adults. About the other allegations of challenging employees to fights, he denied those claims but admitted getting into heated exchanges with them.

The subject employee said that he had known the then-Sheriff for thirty plus years. He said that his fellow employees make negative comments to him about his connection with her.

IA Interview of One of Subject Employee’s Former Supervisors

Approximately two months later, Internal Affairs interviewed the subject employee’s former supervisor who had responded to the first allegation of threatening conduct referenced above.⁸ He advised that the subject employee “got into it” with almost everyone at the work site. The supervisor said that the subject employee would also “rile up” members of the public and recalled one incident where the employee got into a verbal disturbance with an individual.

Disposition of Restarted Internal Affairs Investigation

The Internal Affairs investigation was then concluded, with findings that the subject employee had violated the following policies:

Merit System Rule A25-301(a)(1): Violation of Department rules and policies

Merit System Rule A25-301(b)(1): Gross misconduct or conduct unbecoming a County employee which tends to discredit the County

⁸ This is not the supervisor referenced by the subject employee. As noted above, that supervisor had retired prior to the resumption of the Internal Affairs investigation.

SO General Order 11.00: Failure to conduct oneself consistent with the Code of Ethics and Mission Statement of Sheriff's Office

SO General Order 11.00(c)(5): Addressing another employee in a profane or insulting manner

SO General Order 11.00(E)(2): Misconduct that undermines the order of the Sheriff's Office or reflects discredit upon the Sheriff's Office

SO General Order 11.00(E)(14): General conduct

SO General Order 11.02: Harassment or discrimination in the workplace

BOS Policy 3.8: Policy against discrimination, harassment, and retaliation

A case involving sustained findings of misconduct would ordinarily result in a formal remedial measure of some type, up to and including termination of employment. However, as detailed below, it was 13 months later before the subject received a notice of intent to discipline and was served with a recommended disciplinary action of termination. And as explained below, by that time the employee had retired.

Changes in Leadership of Sheriff's Office

In 2020, while the restarted IA investigation was underway but before the interviews were completed, the then-Undersheriff was indicted for alleged participation in a concealed carry permit "pay to play" scheme. He was then placed on administrative leave. Those criminal charges remain pending at the time of this writing.

Almost two years after he was indicted, the then-Undersheriff retired from the Sheriff's Office in 2022. Approximately a week after the then-Undersheriff retired, the then-Sheriff resigned from the Sheriff's Office while she was facing a trial seeking her removal from office. The trial concluded and the jury found there was sufficient cause to disqualify the Sheriff from the office.

Approximately two weeks after the then-Sheriff tendered her resignation, and six months after he received a letter indicating the Sheriff's Office's intent to terminate him, the subject employee retired from the Sheriff's Office. Two and a half years had passed since the initiation of the Internal Affairs investigation.

However, it was not until two months after the subject employee retired that he received a letter advising him of the conclusion of the disciplinary proceedings against him. The letter advised the employee that had he not retired, he would have been terminated for his misconduct.

Prior Concerns with Subject Employee's Conduct

Early on during the subject employee's tenure, concerns were documented about his conduct. A supervisor wrote that the employee had displayed an aggressive attitude and told a person to "grow up." In another instance, the subject employee had responded to a call by driving too fast and had defied a safety request a sergeant had made of him.

The supervisor further wrote that the subject employee had refused to move his patrol car after being advised it was not in a correct parking space. According to the supervisor, the subject employee said: "If they complain, tell them to see me." The supervisor wrote that the subject employee had shown signs of insubordination and had displayed a "cocky" attitude, essentially communicating: "I'll do it my way and if you don't like it, tough." The supervisor wrote that the subject employee should not be authorized to work alone in a radio car until he could show improvement.

Years later, the subject employee was suspended from his duties due to his failure to complete assigned patrol shifts. The next day, the subject employee put in a request for an administrative transfer. The captain of the subject employee's unit indicated that the subject employee's job performance had been unsatisfactory. The captain wrote that when discussing his training progress, the employee had become hostile and argumentative, demanding that the issue be taken up with the then-Sheriff. The captain wrote that he was in the process of writing the subject employee up for probationary release when the transfer request was received.⁹

The captain did not concur with the transfer request. Despite the recommendation from the captain, the subject employee's request for transfer was approved, and he was allowed to continue working at his newly desired assignment.

OCLEM Review

The Protection of a Problematic Employee

As detailed above, when the Sheriff's Office received two complaints of misconduct regarding the subject employee, it dutifully began internal investigations into the incident. However, the first allegation (involving a challenge by the subject employee to fight the complainant) was sent to the Division and was initially given only cursory treatment. The supervisor assigned to conduct the investigation merely "talked" to the subject employee, accepted the employee's explanation of the incident, and provided

⁹ In the Sheriff's Office, a probationary release occurs when an employee fails to satisfy the probationary terms of his employment; it results in separation from the agency.

him a copy of relevant policies. As detailed above, the supervisor did not even interview the complainant and when asked about it, he said somewhat inexplicably that he did not want to because the complainant would allege that they were covering the incident up for political gain. Tellingly, by those comments this supervisor inferred an awareness of the special relationship between the employee and the then-Sheriff but did not explain how reaching out to the complainant for an interview would cause an allegation of coverup.

Fortunately, IA decided to fold the Division assigned investigation into another allegation against the employee received at about the same time. While it unexplainedly took two months to do so, eventually IA formally opened an investigation into the second allegation. However, when IA notified the then-Undersheriff of the opening of the second investigation, the then-Undersheriff wrote that he did not see any “urgency” regarding the investigation, signaling that IA could take their time with it.

IA then conducted three interviews of witnesses to the workplace incident who not only corroborated the subject employee’s threats against the employee and his challenge to fight but also provided additional leads suggesting additional misconduct involving mistreatment of both co-employees and the public. The investigator then prepared a work plan for interviews of additional witnesses. But, perhaps in obeisance to the then-Undersheriff’s “no urgency” messaging, the investigation went dormant for five months. At that point, and despite the remaining witnesses and leads to be pursued, the IA investigator documented that the then-Undersheriff directed IA to close the investigation since the subject had not had any additional “issues” at his new worksite.

Sixteen months later, there was another verbal altercation between the subject employee and another Sheriff’s Office employee. IA advised the then-Undersheriff that the employee had alleged that the subject employee was protected and urged that the investigation be reopened. The then-Undersheriff concurred.¹⁰ When the investigation resumed, a whole host of additional and more serious allegations against the subject employee were received, including the repeated use of racial slurs at fellow employees. Eventually, these allegations led to multiple findings of misconduct against the subject employee and his eventual retirement, but only after the then-Sheriff and Undersheriff left their positions.

The prior history of the subject employee set out above is further indicia of problematic obstacles to proper accountability, apparently based on ties to the agency’s most powerful figure. The subject employee was unwilling to complete his assignments, to

¹⁰ It should be noted that the then-Undersheriff conditioned his agreement to reopen the investigation on no cross reporting to the County’s Equal Opportunity Department, in contravention of County protocols for addressing allegations of a hostile workplace. As noted above, IA followed those protocols when the investigation was first opened.

the point where his supervisor had advised him that his job performance had been unsatisfactory. In response, the subject employee demanded that the issue be taken up with the then-Sheriff and requested a transfer. The supervisor recommended that the transfer request be denied, but despite that recommendation the subject employee was granted a transfer and allowed to keep working within the Sheriff's Office.

As a result of this pattern, it is not surprising that, as detailed above, numerous witnesses interviewed in the IA investigation reported that the subject employee continually referred to his special relationship with the then-Sheriff and repeatedly told his co-workers that he had friends and influence with the leader of the organization, implying that he could act with impunity. In fact, the co-workers who were initially interviewed expressed skepticism that the newer allegations would have consequences, specifically because of that special relationship. And most concernedly, those predictions were validated by the halting path of the investigation and accountability processes detailed above. It was only because of an altercation that occurred two years after the initial threatening conduct that the subject employee was eventually held to answer for his misconduct – and was separated from the organization only after his apparent benefactors were themselves no longer in their roles.

Inherent Problems with Assignment of Case to Internal Affairs

The nature of the relationship between then-Sheriff Smith and the subject employee created challenges for Internal Affairs. Certainly, it was quickly learned that the employee touted his personal relationship with her at his worksite, and co-employees raised on numerous occasions their belief that the relationship would result in the subject employee suffering no adverse consequences. This placed IA in an inherently uncomfortable situation, since the possibility of adverse findings would presumably be a source of displeasure for the most powerful person in the organization. Concerns about the consequences to the investigating personnel would certainly be understandable, and a similar apprehension might well exist for anyone in the Sheriff's chain of command assigned to figure out the appropriate discipline for the employee.

In such cases, it is advisable for any investigation to be assigned to an outside entity for fact collection and review. In this case, EOD could have conducted a joint investigation with an outside investigator. The outside investigator would have investigated the allegations of violations of Sheriff's Office policies and merit system rules and EOD would have investigated the allegations of violations of Board Policies on discrimination, harassment, and retaliation. Those in the County responsible for ensuring accountability for most other employees could have been the reviewers of the investigative findings and made recommendations on disposition, thus insulating those in the Sheriff's chain of command from the identified pressures.

Even when workplace conduct is not at issue (and thus not the purview of EOD), the investigation should be assigned to a capable outside entity. Doing so would preserve the integrity of the investigation and help eliminate skepticism about the legitimacy of the outcome – which presumably could also be unfair to a genuinely innocent subject whose exoneration might be clouded by suspicions about the process.

Additionally, and for the same reasons, the Sheriff should recuse himself or herself from any participation when close personal or political connection to the subject can reasonably be expected to create a conflict of interest.

RECOMMENDATION ONE: In situations where the subject Sheriff's employee has a personal or political relationship with the Sheriff, entities outside of the Sheriff's Office should conduct the investigation and, in founded cases, determine the consequences for violation of policy.

Inexplicable Delays in Sheriff's Office Investigative and Review Process

An additional troubling aspect of this case was the often-inexplicable delays within Internal Affairs. Gaps of weeks or months without activity marked the original investigation timeline, and persisted through the adjudication process once the investigation was completed. It wasn't until the subject employee had retired and the Sheriff's Administration leadership had completely changed before a letter was finally prepared advising the employee of the Sheriff's Office final determination, thus bringing the matter to its belated conclusion.

Because the documentation was lacking, it was not possible to discern the reason for most of the delays. Explanations could be as direct as actual administration interference and messaging, or a more subtle reticence driven by knowledge of the investigation's disfavored status. But the simple press of other work is also a possibility. Regardless of the reason, though, the long periods of inactivity undermined the process in ways that had implications for both accountability and operational effectiveness.

In an effort to provide clarity about any delays in the investigation, and perhaps to impose a structure that will help promote timeliness, we recommend that Internal Affairs develop written internal protocols instructing investigators to ensure that the case chronology log includes update entries on a regular basis. If there has been no progress on the case since the prior entry, the log should explain the reason for the lack of progress or delay. Such an internal tracking system will add to documentation and accountability, and ideally prevent unreasonable delay from occurring.

RECOMMENDATION TWO: The Sheriff's Office should develop internal written protocols for Internal Affairs that require the chronology logs to be updated on at least a monthly basis, including any reason for case inactivity.

Conclusion

Much like the Hogan matter, this case illustrates how personal and political relationships can undermine the legitimacy of accountability processes. The ramifications for harmony and an effective workplace are serious when an employee is empowered to believe that the rules do not apply to him. It is incumbent upon every law enforcement agency to insulate its internal accountability mechanisms from such improper influence.

The dynamic that apparently happened here was one that undermined operational effectiveness – and one that illustrated why cynicism about law enforcement discipline processes persists. This is true not only among members of the public (who doubt the rigor and objectivity with which law enforcement will “police itself”), but also among employees who come to believe that personal relationships matter more than adherence to policy and agency standards. Though leadership has obviously changed within the Sheriff’s Office since these events took place, the challenge to avoid similar pitfalls is an ongoing one and should be met with structural safeguards as well as individual integrity at the executive level.