

County of Santa Clara
Office of the Sheriff



DATE: March 15, 2016
TO: Blue Ribbon Commission on Improving Custody Operations
FROM: Laurie Smith, Sheriff *Jamie Smith*
SUBJECT: Non-Scope Questions for March 19, 2016 Meeting: Sustained Complaints

Commissioner Callender requested five (5) years of data on the number of sustained complaints, with Use of Force specifically broken out. Below is the breakdown for sustained complaints and complaints where an investigation is still pending. The totals included for each year are inclusive of all complaints per finding. All findings under the current tracking system are as follows and any items in the not sustained, unfounded, exonerated, or no finding is counted as unsustained:

• Not Sustained:

The investigation cannot prove or disprove the allegation(s) by a preponderance of the evidence.

• Unfounded:

The investigation indicates the act(s) complained of did not occur.

• Exonerated:

The investigation indicates the act occurred but the act was justified, lawful and proper.

• Sustained:

The investigation finds, by a preponderance of the evidence, that the act complained of did occur and constitutes a violation of Sheriff's Office policies and procedures or Santa Clara County policies and procedures.

• No Finding:

The investigation did not result in any finding because of lack of cooperation of witnesses, because the allegations did not contain any violation of Sheriff's Office policies and procedures or Santa Clara County policies or procedures, or because the allegations did not involve an employee or volunteer of the Santa Clara County Sheriff's Office.

• Investigation still pending:

An investigation is ongoing and a finding and/or category have not yet been determined.

The Office of the Sheriff is also providing the following definitions of existing complaint categories to assist the Blue Ribbon Commission with understanding the data:

Acronym	Complaint Categories
CRI	Criminal
CUB	Conduct Unbecoming
DEM	Demeanor*
ESC	Escape of Inmate**
FOR	Use of force
FRA	Fraud
HAR	Harassment
OTH	Does not fit pre-determined
PRO	Procedural
SLV	Sick Leave Violation

**In the current system, “demeanor” is not used, and complaints are instead coded as “Conduct Unbecoming.”*

***When an inmate in custody escapes from jail or the Valley Medical Center, an Internal Affairs Unit investigation is automatically conducted.*

The Office of the Sheriff is in the process of implementing IA Pro to automate data collection of complaints and tracking of outcomes. Training will commence the week of March 21, 2016 with an anticipated “go live” date of April 18, 2016. IA Pro will provide the Department with the ability to compile annual complaint reports for the Department of Justice (DOJ) that took effect this year and includes statistics on profiling, harassment, race, ethnicity, and a separation of statistics between enforcement complaints and custody complaints. An enhanced feature of IA Pro is the ability to centralize all complaints and grievances within an early warning system. The system will also allow the Department to create subcategories to gain greater understanding of the nature of complaints. Below is a list of new categories and subcategories that are included in IA Pro:

- Discrimination: *Subcategories below*
- Harassment (not new, but subcategories are) : *Subcategories below*
- Profiling: *Subcategories below*
 - Race/Ethnicity
 - Nationality
 - Gender
 - Age
 - Religion
 - Gender Identity/ Expression

- Sexual Orientation
- Mental Disability
- Physical Disability
- Gender Identity/ Expression
- Sexual Orientation
- Mental Disability
- Physical Disability
- Medical Referral
 - General Care
 - Psychiatric Care
- Whistleblower Complaint
- Insubordination
- Duplicate Complaint
- ESA Claim
- Outside Agency Referral
- Officer Involved Shooting
- Death in Custody***
- Grievance Referral
- Grievance
- Inmate Infraction
- Non Internal Affairs Issue
- Retaliation
- PREA
- Negligence

***A policy change will require all in-custody deaths to automatically trigger an internal investigation immediately

Formal Investigations by Allegation Code and Finding Annually from 2010-2015

Please note: unsustained are incorporated into the Allegation Total for each year

2010	CRI	CUB	DEM	ESC	FOR	FRA	HAR	OTH	PRO	SLV	TOTAL
Sustained	6	5			1					2	14
Allegations Total 2010	7	8	0	0	2	0	3	7	0	4	31
2011	CRI	CUB	DEM	ESC	FOR	FRA	HAR	OTH	PRO	SLV	TOTAL
Sustained	3	10			1					2	16
Allegations Total 2011	3	14	0	0	3	0	0	6	0	3	29
2012	CRI	CUB	DEM	ESC	FOR	FRA	HAR	OTH	PRO	SLV	TOTAL
Sustained	6	11			4	1	2			2	26
Investigation Pending								4			4
Allegations Total 2012	8	14	0	0	6	1	2	8	1	2	42
2013	CRI	CUB	DEM	ESC	FOR	FRA	HAR	OTH	PRO	SLV	TOTAL
Sustained	4	5			2					1	12
Investigation Pending								4			4
Allegations Total 2013	4	6	0	0	2	1	0	4	0	1	18
2014	CRI	CUB	DEM	ESC	FOR	FRA	HAR	OTH	PRO	SLV	TOTAL
Sustained	1	5							2	1	9
Investigation Pending	1	4						8			13
Allegations Total 2014	3	10	0	0	1	0	0	8	2	1	25
2015	CRI	CUB	DEM	ESC	FOR	FRA	HAR	OTH	PRO	SLV	TOTAL
Sustained		1								1	2
Investigation Pending	3	15		1	4		2	7		1	33
Allegations Total 2015	3	16	0	1	5	0	2	7	0	2	36
TOTAL ALLEGATION FINDINGS 2010-2015											
2015-2015 TOTAL UNSUSTAINED	4	12	0	0	7	1	3	17	1	3	48
2015-2015 TOTAL SUSTAINED	20	37	0	0	8	1	2	0	2	9	79
2010-2015 TOTAL PENDING	4	19	0	1	4	0	2	23	0	1	54
2010-2015 TOTAL ALLEGATIONS	28	68	0	1	19	2	7	40	3	13	181

Below are Use of Force cases that have been sustained by formal investigation, or are still in the process of being investigated from 2010-2015:

USE OF FORCE - SUSTAINED OR PENDING BY FINDING	2010	2011	2012	2013	2014	2015	Total
Sustained	1	1	4	2			8
Investigation Pending						4	4
TOTAL	1	1	4	2	0	4	12

For comparison, below is Non-Use of Force cases that have been sustained by formal investigation, or are still in the process of being investigated from 2010-2015:

NON-USE OF FORCE - SUSTAINED OR PENDING BY FINDING	2010	2011	2012	2013	2014	2015	Total
Sustained	13	15	22	10	9	2	71
Investigation Pending			4	4	13	33	54
TOTAL	13	15	26	14	22	35	125

For context, below is an overall look at unsustainable formal investigations of Use of Force cases from 2010-2015 broken down by finding:

Use of Force (FOR) - UNSUSTAINED, BY FINDING	2010	2011	2012	2013	2014	2015	Total
Not Sustained		1					1
Unfounded		1	1				2
Exonerated	1		1		1	1	4
No Finding							
TOTAL	1	2	2	0	1	1	7

For context, below is an overall look at unsustainable formal investigations of non-Use of Force cases from 2010-2015 broken down by finding:

NON-USE OF FORCE CASES – UNSUSTAINED, BY FINDING	2010	2011	2012	2013	2014	2015	Total
Not Sustained	9	3	4		2		18
Unfounded		1	1				2
Exonerated			1				1
No Finding	7	7	4	2			20
TOTAL	16	11	10	2	2	0	41

CC: Board of Supervisors

Jeffrey V. Smith, County Executive