

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject REVIEW OF CASES DECLINED FOR PROSECUTION	Policy Number ED-3
		Effective Date 09-16-25
Related Information GA-1, <i>Development of Written Orders</i> GB-2, <i>Command Responsibility</i> GG-1, <i>Peace Officer Training Administration</i> GH-5, <i>Early Identification System</i> GJ-6, <i>Criminal Investigations Organization and Administration</i> GJ-7, <i>Criminal Investigations: Operations</i>	Supersedes ED-3 (06-05-24)	

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures for the review of cases declined for prosecution or dismissed by a prosecutorial agency and to establish corrective procedures when warranted.

Although this Office Policy refers to employees throughout, this 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 ensure that all cases are thoroughly prepared and reviewed before submission to a prosecutorial agency in an effort to reduce the possibility of a decline for prosecution or dismissal of the charges. All cases declined for prosecution or dismissed shall be reviewed to determine if the decision was the result of an arrest unsupported by probable cause, or otherwise in violation of Office Policy, or that indicates a need for corrective action or review of Office Policy, strategy, tactics, or training or if the Incident Report (IR) previously reviewed and approved by an immediate supervisor was deficient.

DEFINITIONS

Conclusory or Boilerplate Language: Conclusory language is an inference, which has no proof and has no stated proof. Boilerplate language is stock, unoriginal language that appears repeatedly in different reports and fails to attest to the unique facts of an incident. Conclusory language can lead to boilerplate language. For example, an employee may write “*I noticed the subject was drunk.*” This language is conclusory, because it is not supported by fact; when repeated across reports, the language is also boilerplate. Based on the unique facts of the incident, the report could have avoided conclusory language by stating: “*I noticed the subject had a strong odor of an alcoholic beverage emitting from their person, their eyes were bloodshot and watery, they staggered as they walked toward me, and their speech was slurred as they spoke. It appeared the subject was under the influence of alcohol.*” Although this new language is not conclusory, it can become boilerplate through repeated use in reports; this problem often arises through use of a template. Supervisors should therefore look for repeated language even if it is not conclusory.

Deputy: Any sworn law enforcement officer employed by the Office, and reserve deputies.

Early Identification System (EIS): A system of electronic databases that captures and stores threshold events to help support and improve employee performance through early intervention and/or to identify problematic operating procedures, improving employee performance, identifying detrimental behavior, recognizing outstanding accomplishments, and to improve the Office's supervisory response. The computerized relational database shall

collect, maintain, integrate, and retrieve information gathered in order to highlight tendencies in performance, complaints, and other activities. The database allows the Office to document appropriate identifying information for involved employees, (and members of the public when applicable), and the actions taken to address the tendencies identified. Blue Team, IAPro, and EIPro are applications of EIS.

Early Intervention Unit (EIU): The EIU is part of the Bureau of Internal Oversight. The EIU is responsible for the implementation, maintenance, and operation of the EIS and for providing training and assistance to the EIS users. The unit conducts data analysis, data input, and review of activities exceeding thresholds to address potentially problematic conduct or operating procedures and recognizes positive attributes by reviewing employee awards. The Office shall ensure there is sufficient personnel to facilitate EIS input and training.

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

Incident Report (IR) Memorialization: An entry generated in Blue Team by a supervisor detailing report writing deficiency(s) of an employee relative to any investigatory detention, Terry Frisk, search unsupported by reasonable suspicion, arrest unsupported by probable cause, or are otherwise in violation of Office Policy.

The entry shall include the corrective action taken by the reviewing supervisor when the review indicates any of the following report writing deficiencies: conclusory or boilerplate language; inconsistent information; indicia that information on the report is not authentic or correct; lacks articulation of legal basis for action; Miranda violation; missing elements of the crime; no probable cause for arrest; no probable cause for charge; no reasonable suspicion; unlawful/improper detention, unlawful/improper investigatory stop, unlawful/improper search; unlawful/improper seizure of property; or evidence of bias-based profiling.

The entry shall also be generated when the supervisor's report writing review indicates a need for review of Office Policy, strategy, tactics, or training.

Investigatory Detention: A brief, minimally intrusive stop of a subject for the purpose of investigating a potential violation of law where a reasonable person would not feel free to leave, decline a deputy's request, or otherwise terminate the encounter with the deputy. An investigatory detention requires reasonable suspicion that the person has committed, is committing, or is about to commit, a crime or that a violation of law has occurred in which a detention is authorized.

PROCEDURES

1. **Charging Submittals:** When charges in the form of a citation, complaint, or indictment have been submitted, deputies shall not recommend reduction, dismissal, or other special consideration be given unless authorized by the Sheriff or designee. This does not prevent deputies from informing prosecutors about circumstances regarding a particular case. If a deputy becomes aware of any arrest that is invalid or the wrong person is in custody, they shall immediately notify the on-duty supervisor.
2. **Declined Case Notifications:** Cases which have been declined for prosecution or dismissed by a prosecutorial agency shall be reviewed by Office supervisors through Blue Team only.
3. **Furtherance Requests from Prosecution Agencies:** Furtherance requests should be directed to the case agent or the division that investigated the case. It is the responsibility of the case agent, their direct supervisor, or designee of the division to handle furtherance requests and produce all requested records to the prosecuting agency. The Public Records and Request Management Section (PRRM) does not handle furtherance requests from prosecuting agencies, such as the Maricopa County Attorney's Office (MCAO), regardless of what records are being requested, to include Body-Worn Camera (BWC) video footage. When a furtherance request is received from a prosecuting agency and is formally charging the subject, the prosecuting agency shall be contacted and informed to submit a discovery request to the PRRM.

4. **Early Intervention Unit (EIU) Responsibilities:** The Early Intervention Unit (EIU) receives all case dispositions for cases submitted by deputies to a prosecutorial agency.
 - A. The EIU shall enter the received documents related to the declined case, and the type of disposition into the Early Identification System (EIS).
 - B. The EIU shall send the declined case notification to the case agent/deputy listed on the notification, through Blue Team, with a carbon copy sent to the current supervisor of the case agent/deputy who is listed on the notification.
 - C. If the case agent/deputy who originally submitted the case is no longer employed with the Office, EIU shall send the declined case notification through Blue Team to the division commander where the case originated.
5. **Supervisor Responsibilities:** Supervisors shall review declined case notifications and associated attachments to determine the reason for the prosecutorial decision/notification.
 - A. Cases Declined for Prosecution *Incident Report (IR) Memorialization* Action: If the supervisor's review of a declined case identifies a report writing deficiency(s) requiring an *IR Memorialization*, an entry shall be completed in Blue Team, as specified in Office Policy GB-2, *Command Responsibility*. Related supporting documents to a declined case; to include but not limited to, an IR, a *Vehicle Stop Contact Form (VSCF)* or a *Non-Traffic Contact Form (NTCF)*, are also considered for this review. Minor incorrect or inaccurate information such as spelling, grammar, or detail errors that would not otherwise hinder the basis for the action generated in a report or form, do not normally require an *IR Memorialization*; instead, these minor report writing deficiencies shall be addressed through corrective action with the supervisor and may be documented in a Blue Team Supervisor Note, as necessary.
 1. Deficiency Identification: An *IR Memorialization* entry for corrective action is required if the supervisor review reveals an employee's report writing deficiency(s), any investigatory detention, Terry Frisk, search unsupported by reasonable suspicion, arrest unsupported by probable cause, or otherwise in violation of Office Policy. Deficient report writing findings requiring corrective action are specific to:
 - a. Conclusory or boilerplate language, inconsistent information, indicia that information on the report is not authentic or correct, lacks articulation of legal basis for action, Miranda violation, missing elements of the crime, no probable cause for arrest, no probable cause for charge, no reasonable suspicion, unlawful/improper detention, unlawful/improper investigatory stop, unlawful/improper search, unlawful/improper seizure of property, bias-based profiling and/or,
 - b. When there is any indication a further review of Office Policy, strategy, tactics, or training is necessary.
 2. Blue Team Entry: When initiating the *IR Memorialization* entry, the supervisor shall select the Incident Type - *IR Memorialization* in Blue Team and select the proper allegation(s) beginning in the prefix IRM. The *IR Memorialization* incident summary section shall be completed to include the deficiency detail information along with the applicable corrective action to address deficiency. The supervisor shall send the entry for chain of command review. If the supervisor recommends a need for review of Office Policy, strategy, tactics, or training, the supervisor shall include the review recommendation, along with the deficiency/action information in the entry incident summary, for chain of command review.

- a. *IR Memorialization* allegations are indicated in the Office Policy GH-5, *Early Identification System*, Attachment A.
 - b. The *IR Memorialization* entry shall be sent to the EIU through the chain of command using the Blue Team application, as specified in Office Policy GH-5, *Early Identification System*.
 - c. In addition to documenting in the *IR Memorialization* entry, any corrective action taken regarding the employee's performance shall be documented within a Blue Team Supervisor Note, as specified in Office Policies GH-5, *Early Identification System* and GB-2, *Command Responsibility*.
3. If the supervisor's review identifies an Office Policy concern, the supervisor may submit a memorandum to the Policy Development Section (PDS), as specified in Office Policy GA-1, *Development of Written Orders*. If submitted, a copy of the memorandum shall be sent with the *IR Memorialization* in Blue Team.
- B. If the supervisor's review of a declined case determines there are multiple writing deficiencies made by the case agent/deputy, then one *IR Memorialization* entry in Blue Team shall be completed to capture **all** deficiencies. If the supervisor review determines multiple employees have made an error(s) meeting the requirement for an *IR Memorialization*, then separate *IR Memorialization* entries shall be completed for each employee.
1. The supervisor shall complete the *IR Memorialization* entry within 14 business days for chain of command review.
 2. The next chain of command review shall be completed within 14 days of receiving the IRM reporting the event. The commander shall evaluate the corrective action and recommendations indicated in the supervisor's response and ensure that all appropriate corrective action was taken. The commander's review should normally be documented in the routing comments of the *IR Memorialization* entry in Blue Team.
 3. If determined by the chain of command that there were supervisor review failures, a notation shall be indicated in the *IR Memorialization* entry being reviewed, and a new *IR Memorialization* shall be initiated and completed by the chain of command supervisor, following the *IR Memorialization* procedures, as specified in this Office Policy.
 - a. In these instances, the new *IR Memorialization* entry generated by the chain of command may utilize the *IR Memorialization* Blue Team allegation "IRM – Other" to indicate and subsequently document the supervisory failure to properly review a report that contained a deficiency(s).
 - b. The entry incident summary section shall be completed to include the deficiency detail information along with the applicable corrective action.
- C. Further guidelines and procedures for *IR Memorialization* entries are specified in Office Policies GH-5, *Early Identification System* and GB-2, *Command Responsibility*.
- D. In the event the supervisor's review determines the declined case was **not** the result of a report writing deficiency requiring an *IR Memorialization*, the supervisor shall forward their review through the chain of command for review and approval.

6. **Case Agent/Deputy Responsibilities:** Upon assignment of a declined case notification, the case agent/deputy shall do the following:
 - A. Determine whether further investigation can be completed and if the case can be resubmitted to the prosecutorial agency for reconsideration of charges.
 1. If further investigation is warranted, the investigative processes shall be completed and documented, as specified in Office Policies GJ-7, *Criminal Investigations: Operations* and GJ-6, *Criminal Investigations Organization and Administration*. The case shall be resubmitted to the prosecutorial agency for consideration of charges.
 2. When no further investigation is warranted, if the case disposition notification was for charges being filed, or if the notification was a final case disposition, a *Case Clearance Report* shall be completed in TraCS.
 - B. The case agent/deputy shall document the steps taken in response to the declined case notification within the Blue Team entry, mark the entry complete, and forward it back through their chain of command for review and approval.
7. **Division Commander Responsibilities:** The division commander shall review all declined case notifications completed by those case agents/deputies under their command for proper completion and appropriate disposition.
 - A. The division commander shall review all *IR Memorialization* entries of supervisory reviews related to any investigatory detention, Terry Frisk, search unsupported by reasonable suspicion, or arrests that are unsupported by probable cause, are otherwise in violation of Office Policy, or that indicate a need for corrective action or review of Office Policy, strategy, tactics, or training. The commander's review through Blue Team shall be completed within 14 business days of receiving the *IR Memorialization* entry reporting the event.
 1. The division commander's review should incorporate a review of the supervisor that first signed off on the report.
 - a. If determined by the chain of command there was supervisor review failures, a notation shall be indicated in the *IR Memorialization* entry being reviewed, and a new *IR Memorialization* shall be initiated and completed by the chain of command supervisor, following the *IR Memorialization* procedures as specified in Office Policy GB-2, *Command Responsibility*.
 - b. In these instances, the new *IR Memorialization* entry generated by the chain of command may utilize the *IR Memorialization* Blue Team allegation "IRM - Other" to indicate and subsequently document the supervisory failure to properly review a report that contained a deficiency(s). The entry incident summary section shall be completed to include the deficiency detail information along with the applicable corrective action.
 2. The division commander shall evaluate the corrective action and recommendations in the supervisor's *IR Memorialization* entry through Blue Team and ensure that all appropriate corrective action is taken, and document their evaluation in the routing comments of the *IR Memorialization* entry in Blue Team.

- B. Once approved, the division commander shall forward the Blue Team entry back to the EIU for inclusion in the EIS. All Blue Team entries should be utilized for inclusion in the annual Employee Performance Appraisal for each employee.
 - C. If the case agent/deputy that originally submitted the case is no longer employed with the Office, the division commander shall assign the case to a deputy under their command for proper completion and appropriate disposition. Cases declined that do not need further action shall be reviewed by the division commander and forwarded to the EIU.
8. **Training:** When a case was declined for prosecution or dismissed and the reason was due to an arrest unsupported by probable cause, or otherwise in violation of Office Policy, or that indicates a need for corrective action or review of Office Policy, strategy, tactics, or training, the information from the error may be used by the division commander as a preventive training tool for deputies and supervisors. In order to avoid similar errors in future cases, the division commander may forward the information to the Training Division Commander for a Training Diagnosis and Needs Review regarding report writing, as specified in Office Policy GG-1, *Peace Officer Training Administration*.