



## An Overview of the Complaint and Discipline Process for Employees of the Jacksonville Sheriff's Office

### How does JSO receive complaints?

JSO reviews every complaint made against an employee, regardless of how JSO receives the complaint and regardless of who makes the complaint. While there is an online complaint form available at [jaxsheriff.org](http://jaxsheriff.org), complaints can also be submitted in a variety of other ways:

- By mailing a letter to the Police Memorial Building (501 East Bay Street) or a zone substation
- By sending an email to a JSO email address
- By calling the non-emergency number, the Internal Affairs Unit, or any other JSO office
- By simply relaying the complaint to a JSO officer or supervisor

JSO policy also requires all employees who become aware of possible misconduct to report it immediately to a supervisor or to the Internal Affairs Unit.

#### In 2021:

- **399 of the 1317 complaints received by JSO were made by JSO employees.** These complaints are also referred to as “in-house” complaints.
- **240 of these 399 (60%) in-house complaints were sustained** and resulted in some form of corrective action or discipline.

### What happens after JSO receives a complaint on an employee?

All complaints are thoroughly reviewed and investigated to determine if an employee broke a law or JSO policy. Complaints can range from minor violations (e.g., an officer being rude to a citizen, an officer forgetting to ask a certain question in an investigation) to more serious violations (e.g., an officer using unnecessary force against a citizen, an officer breaking the law). Depending upon the type of alleged misconduct, the officer could be the subject to up to *three* separate investigations, each conducted by a different group:

- Criminal Investigation – JSO Integrity & Special Investigations Unit (ISIU) and the State Attorney's Office (SAO)
- Administrative Investigation – JSO Internal Affairs Unit
- Law Enforcement Certificate Evaluation – Florida Department of Law Enforcement (FDLE)

## **What happens during the criminal investigation of an employee?**

If a complaint contains an allegation that an employee broke the law, then a criminal investigation is initiated. JSO's Integrity & Special Investigations Unit (ISIU) investigates the complaint in the same way a detective would investigate a robbery or a burglary. ISIU detectives collect/analyze evidence, interview witnesses, and search for any videos that might have captured the officer committing the crime. Once ISIU obtains all available evidence, the ISIU detectives meet with the State Attorney's Office (SAO) to determine if there is enough evidence to warrant arresting and charging the officer with a crime. If the officer is arrested, the officer has the same rights and obligations as any citizen arrested for a crime. The charged officer has a right to due process, a right to an attorney, and a right to not make self-incriminating statements. The ISIU reports only to the Undersheriff. This reporting structure protects the integrity and the confidentiality of the investigations.

**Between July 2015 and May 2022, JSO arrested 67 of its employees** for crimes ranging from theft to DUI to battery.

The only types of criminal investigations that ISIU detectives do not conduct are officer-involved shootings or in-custody deaths related to an officer's use of force. These investigations are more complex than other investigations (requiring detectives that have additional training), which is why specialized detectives from JSO's Cold Case Unit are assigned these cases. The SAO also completes a separate, independent investigation into these incidents, starting with responding to the scene of the incident and ending with a decision on whether or not the officer followed the law when the officer used force.

## **What happens during the administrative investigation of an employee?**

Once the criminal case is closed, JSO can then begin the administrative investigation into possible violations of its policies. Prior to being disciplined or fired, it is imperative (and required by Florida State Statutes and City of Jacksonville Municipal Ordinance) that JSO conduct a fair and impartial investigation into the alleged misconduct of an employee. The Internal Affairs (IA) Unit investigates employees who violate JSO policy. The reason the criminal investigation needs to be finished before we start on the IA investigation is because government employees are required by law to answer any question asked by their employer regarding a complaint. An employee cannot refuse to answer an employer's question. The protections afforded to the employee during the criminal investigation are not present during the administrative process. Therefore, an employee's answers to an employer's questions are not allowed to be used against the employee in a criminal case. Using information in a criminal case that the employee was required to provide during an administrative investigation, would violate the rights established by the Fifth Amendment and emphasized in *Miranda v. Arizona* (1966)

and *Garrity v. New Jersey* (1967).<sup>1</sup> If administrative cases are investigated at the same time as the criminal case, there is a significant risk that the criminal case would be tainted by compelled statements made by the employee during an administrative investigation. Here's an example:

A neighbor alleges that Officer John Smith stole his shovel. Detectives start investigating to see if there is enough evidence to prove Officer Smith committed the theft. Just like any other citizen, Officer Smith does not have to provide those detectives with any statements to help with their investigation against him. However, the police agency Officer Smith works for conducts the administrative investigation at the same time, and forces Officer Smith to answer questions about what happened. It even gets a confession from him that he stole the shovel. Any arrest of Officer Smith after this questioning in the administrative investigation is going to be problematic because Officer Smith can argue that his forced confession by his own police agency led to him being arrested. This scenario could easily result in the entire criminal case being dismissed for violating Officer Smith's constitutional rights.

During an administrative investigation of an employee, the IA Unit collects and analyzes evidence, witness statements, and videos to determine if the officer violated JSO agency policy. As was mentioned before, these detectives also get to ask the employee questions under oath that the employee is required to answer. When interviewing an officer charged with a policy violation, there are a few rules the detectives must follow, called the Florida Law Enforcement Officer's Bill of Rights, which can be found in Florida State Statute 112.532. Here are a few of the significant rules that JSO must abide by:

- The interview must take place at a reasonable hour at the police station and must include reasonable breaks.
- The officer gets to know what the complaint is about and gets to review the case file (another reason why the administrative investigation should not be done if a criminal case is still being worked...you wouldn't allow the subject of a criminal case to be able to see the evidence against him until after he is arrested).
- The officer gets to have a representative with him (typically someone from his labor union).

As per Florida law, administrative investigations of officers must be completed within 180 days. After all the evidence has been collected and all the interviews have been completed, Internal Affairs detectives determine if there is a preponderance of evidence that the employee violated policy. The "preponderance of evidence" is the legal standard used in many civil cases. It is much lower than the standard used to convict someone of a crime ("proof beyond a reasonable doubt"). The "preponderance of evidence" standard is met if, in looking at all the evidence and testimony, it is more likely than not the employee violated policy. If it is proven the employee broke one or more agency rules, the case is categorized as "sustained" and the employee then receives the appropriate training

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<sup>1</sup> In *Miranda v. Arizona*, the U.S. Supreme Court ruled that a person being interrogated by police has the right to consult with an attorney beforehand and has the right against self-incrimination. In *Garrity v. New Jersey* (1967), the U. S. Supreme Court affirmed that public employees have this same right against self-incrimination.

or discipline. This lower legal standard is why an employee can be cleared of criminal charges, but still have sustained administrative charges for the same conduct.

The process for administrative investigations of officer-involved shootings varies slightly from this process. After the criminal case into a shooting is concluded by the State Attorney's Office and no criminal charges will result, the JSO Response-to-Resistance Review Board conducts an administrative hearing of the actions by the officer involved in the shooting. The Board reviews all the details of the case and directly question the involved officer(s) to determine if policy was followed. If it appears that the officer did not follow policy, then the Internal Affairs Unit completes an administrative investigation of that officer in the same format as discussed above. While a Board hearing is not open to the public due to it being confidential under Florida law, the Board hearing becomes public record once the administrative case is concluded. In 2020, JSO began uploading its Response-to Resistance Board hearings to the JSO Open Data & Transparency page, which can be found on JSO's website ([jaxsheriff.org](http://jaxsheriff.org)).

## What types of discipline do employees receive when they violate policy?

As with any other organization, the type of discipline an employee receives depends on how serious the violation is and the employee's prior disciplinary history. The labor agreement limits how much weight an employee's prior disciplinary history can be given when deciding progressive discipline for current violations. Here is the range of corrective actions and discipline JSO uses, from least to most severe:

- *Training / Counseling* – This is the first step and is actually not considered discipline. It is used for very minor violations and for situations where the employee likely needs additional training. During a counseling session, the employee meets with his supervisor who reviews what the employee did wrong and discusses how the employee can improve and avoid making the same mistake.
- *Written Reprimand (Level One or Level Two)* – These are the first disciplinary steps and are used for violations that merit more than just remedial training or a counseling session. The employee receives a documented reprimand, which stays active in his file for a certain period.<sup>2</sup> When being given the reprimand, the employee is informed that continued violations will lead to more significant steps, including possible suspension, demotion, and/or termination.
- *Suspension / Demotion* – These actions are taken when an officer commits certain serious misconduct, such as grossly mishandling an investigation or failing to take appropriate action on a violent call. If the employee is a supervisor, he is also subject to being demoted to his previous rank for breaking these rules. **Between July 2015 and May 2022, 74 employees were suspended or demoted.**

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<sup>2</sup> Current collective bargaining agreements (contracts between COJ and the FOP) require JSO to purge reprimands issued to officers after three years; documents related to suspensions and demotions must be purged after five years.

- *Termination* – If the violation is particularly serious, such as breaking the law or falsifying a report, the employee can be fired. **Between July 2015 and May 2022, 176 employees were either terminated or resigned while under investigation.**

The particular discipline selected for a policy violation is determined by standards established in the JSO Disciplinary Action Guide, an appendix to JSO Order 501 (Code of Conduct), which is available to the public on the JSO Open Data & Transparency page, located at [jaxsheriff.org](http://jaxsheriff.org). This guide lists the types of administrative charges and the range of discipline appropriate for each charge. It is important to note that while the disciplinary scale is progressive, an employee can receive significant discipline for a first-time offense, depending on how serious the misconduct was.

### **Can an employee appeal the outcome of an administrative investigation?**

Yes. Employees have several options to appeal their discipline, including filing a grievance with their chain-of-command or the Civil Service Board (CSB), which is a panel of civilians established by the City of Jacksonville Civil Service Rules and Regulations.

When an employee appeals his discipline to the CSB, the CSB gets to hear from a representative of JSO (typically the Sheriff, Undersheriff, or a Director) who explains the reasons for the decision to discipline and why it is appropriate under JSO policy. The employee also gets to explain why he thinks the discipline is inappropriate. At the conclusion of the hearing, the members of the CSB vote and decide on two things: 1) whether or not the employee's misconduct supports policy violations and 2) whether JSO's discipline (suspension, demotion or termination) was too severe, not severe enough, or appropriate. **From July 2015 to May 2022, there have been 27 CSB hearings** involving members of JSO. **In all 27 hearings, the CSB upheld JSO's decision to sustain charges against the employee.** With regards to the discipline JSO selected for the employee,

- **In 19 of them**, the CSB upheld JSO's discipline, saying it was appropriate.
- **In the other 8 of them**, the CSB **reduced** the discipline because it determined JSO had been too severe on the employee.
- And since July 1, 2015, this **all-civilian board** has **never** increased the level of discipline JSO levied against an employee, indicating that JSO is not soft-handed and consistently takes the corrective and disciplinary actions needed to maintain the highest of standards for its employees.

### **What happens during the law enforcement certificate evaluation conducted by the Florida Department of Law Enforcement (FDLE)?**

After the administrative investigation is completed, certain cases qualify for a review by FDLE's Criminal Justice Standards & Training Commission (CJSTC). It is the State of Florida determining

whether an officer can work as an officer in another Florida police agency. Examples of the types of cases that require this third investigation include:

- Criminal conduct
- Unnecessary force
- Moral character violations, such as sexual misconduct or departure from the truth

FDLE reviews JSO's administrative investigation and determines what action should be taken with regards to the police officer's or correctional officer's law enforcement certificate. FDLE may suspend or even revoke an officer's law enforcement certificate if the misconduct was serious enough. From July 2015 to June 2020, the FDLE conducted 161 of these reviews:

- 29 of those cases resulted in officers' certificates being revoked, meaning they are no longer certified to be an officer in Florida.
- 13 of those cases resulted in officers having their certificates suspended for a period of time.

In nearly every case, FDLE concurred with the action taken by JSO and felt it was appropriate, given the details of the complaint and the outcome of the administrative investigation.

## **What happens after the investigations have been completed by JSO?**

- If the complaint was made by a citizen, they are sent a letter explaining the outcome of the case.
- Sustained complaints are then entered into the employee's disciplinary history. JSO maintains a record for every employee that notes the charges and findings for each time an employee was investigated. Anyone can receive a copy of an employee's administrative investigation history by requesting it via a public records request at [jaxsheriff.org](http://jaxsheriff.org).
- While an administrative case is active, F.S.S. 112.532(4)(b) makes an open administrative case file confidential, which means it cannot be released to the public. However, once it is closed (and by law, it must be closed within 180 days of opening it), it can be released to the public. In 2021, JSO processed over 52,000 public records, 325 of which were specifically for administrative case records.

## **How does JSO ensure its complaint and disciplinary processes adhere to the highest industry standards?**

The Jacksonville Sheriff's Office (JSO) has a robust process for investigating complaints on employees and periodic reviews of the outcomes and processes, with oversight by various external entities, including:

- City of Jacksonville (COJ) Civil Service Board (CSB)
- Florida Department of Law Enforcement (FDLE)
- Commission on Accreditation for Law Enforcement Agencies (CALEA)

[jaxsheriff.org](http://jaxsheriff.org)

- Commission for Florida Law Enforcement Accreditation (CFA)

In addition to the Civil Service Board and FDLE, JSO also voluntarily complies with national and state law enforcement accreditation standards. Both the Commission on Accreditation for Law Enforcement Agencies (CALEA) and the Commission for Florida Law Enforcement Accreditation (CFA) conduct annual reviews of our practices and policies to ensure JSO is in compliance with the highest of industry standards. Specific to the complaint process, these accreditation agencies inspect and assess JSO on how it addresses complaints, how it handles misconduct, and how it proactively works to make sure employees perform their jobs equitably and professionally.