



WEBER COUNTY SHERIFF'S OFFICE

POLICY AND PROCEDURES

Member Notification of Internal Investigation

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| EFFECTIVE DATE: 08/01/01 AMENDS/SUPERCEDES: 38.6 STANDARD NUMBER: 52.1.6 | REVIEW DATE: 03/01/05 REVISION DATE: 03/01/05 APPROVED: <u> ** On File </u> Sheriff Signature |
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38.6.1 Purpose

To provide official notification to the accused member notice of a complaint made involving the member.

38.6.2 Rationale

Members who are accused of wrongdoing are entitled to proper due process and to play a role in the investigation of complaints made against them. An objective investigation should include the accused member's responses to allegations and evidence made against them.

38.6.3 Definitions

- A. Administrative Warning – Absent any criminal allegations against the accused member, this warning notifies the member that their cooperation in the internal investigation is required and that any lack of cooperation or dishonesty may be deemed as insubordination. This warning may also be given to a member who is a potential witness who is reluctant to cooperate with an internal investigation.
- B. Garrity Warning – A warning to the member that they will be required to answer questions given to them honestly, accurately and completely regarding issues related to an internal investigation. In addition, the statements made by the accused under *Garrity* cannot be used against the accused in any subsequent criminal proceedings.

38.6.4 Policy

- A. When a member becomes the subject of an internal investigation, he/she will be notified in writing of the allegation(s) and his/her rights as a member. The notification should be made by the investigating supervisor or Bureau

Commander during a one-on-one meeting.

- B. This requirement can be waived by the Sheriff involving an investigation where notification to the member would compromise the investigation or the investigation is being conducted as an undercover investigation.

38.6.5 Procedure

- A. Member notification - A Sheriff's Office member being questioned relative to an internal investigation may be given an administrative warning or a Garrity warning at the discretion of the investigator. The warning will:
 - 1. inform the member that he/she is required to answer questions that are specifically, directly, and narrowly related to that member's knowledge of the events under investigation;
 - 2. require answers to questions;
 - 3. inform the member that refusing to answer questions, answering questions falsely or giving misleading information is cause for disciplinary action by the Office up to, and including termination;
 - 4. inform the member that, when necessary to protect the integrity of the interview or investigation, investigators may order members not to disclose or discuss with others the contents or matter discussed in a fact finding investigative interview.
- B. Counsel for the accused member - If a member requests an attorney or another representative, the investigator shall inform him/her that matters under review are administrative, not criminal, with no constitutional right to counsel during the administrative interview. The member may request the presence of an attorney or another person of his/her choice, such as but not limited to another member or labor relations representative, but that person will only be allowed to remain and/or participate in any discussion at the discretion of the investigator. Those who are restricted from acting as an advocate or advisor for the accused include:
 - 1. the Sheriff,
 - 2. a Chief Deputy,
 - 3. a Bureau Commander,
 - 4. an employee of the Weber County Human Resource Department, or
 - 5. a member of the Weber County Attorney's Office.
- C. All internal investigations will be completed regardless of the employment status of the accused member.
- D. Notification of final disposition - Using the chain of command, the Chief Deputy

will notify the concerned member of the final disposition, to include any action which may be taken by the Sheriff's Office.

38.6.6 References

Garrity v. New Jersey, 385 U.S. 493 (1967)