

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject REVIEW OF CASES DECLINED FOR PROSECUTION	Policy Number ED-3 Effective Date 06-05-24
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 (12-03-21)	

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 Office 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

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 deficiencies of a serious nature, or any investigatory stop, detention, or search unsupported by reasonable suspicion or are otherwise in violation of Office Policy; or stops or detentions that indicate a need for corrective action or review of Office Policy, strategy, tactics, or training. The *IR Memorialization* shall be generated if an employee's report, investigatory stop, detention, or search contains: conclusory or boilerplate language; contains inconsistent information; lacks support for the action; has other indicia that the information in the report or form is not authentic or correct; lacks articulation of the legal basis for action; has other indicia that the information in the report or form is not authentic or correct; lacks probable cause of arrest; lacks reasonable suspicion; lacks elements of the crime; or appears to show evidence of bias-based profiling.

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 Office Legal Liaison Section (LLS) does not handle furtherance requests from prosecuting agencies, such as MCAO, regardless of what records are being requested, to include 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 LLS.
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 current supervisor of the deputy who originally submitted the case through Blue Team, with a carbon copy sent to the respective division commander.
 - C. If the 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:** The supervisor shall review the declined case notification and attachments to determine the reason for the prosecutorial decision/notification and assign the case to the appropriate deputy for supplemental actions.
 - A. If the supervisor's review of a declined case identifies report writing deficiencies of a serious nature, or any investigatory stops, detention, or search unsupported by reasonable suspicion, or are otherwise in violation of Office Policy, an IR Memorialization entry shall be completed in Blue Team, as specified in Office Policy GB-2, *Command Responsibility*.

- B. If the supervisor's review identifies that a case was declined for prosecution or dismissed due to an arrest unsupported by probable cause, or otherwise in violation of Office Policy, or that identifies a need for corrective action or review of Office Policy, strategy, tactics, or training, the reviewing supervisor shall document the error and the corrective action taken within an IR Memorialization.
 - 1. In addition to the IR Memorialization, any corrective action taken shall be documented, as specified in Office Policies GH-5, *Early Identification System* and GB-2, *Command Responsibility*.
 - 2. The IR Memorialization entry shall be sent to the EIU through the chain of command using Blue Team, as specified in Office Policy GH-5, *Early Identification System*.
 - 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.
 - C. If the supervisor's review of a declined case determines there are multiple errors made by the deputy, then one IR Memorialization entry in Blue Team needs to be made to capture all deficiencies. The IR Memorialization entry shall be sent to the EIU through the chain of command, using Blue Team.
 - D. In the event the supervisor's review determines the declined case was not the result of an arrest unsupported by probable cause, otherwise in violation of Office Policy, or that indicates a need for corrective action or review of Office Policy, strategy, tactics, or training, no further action is required. The supervisor shall assign the declined case notification to the deputy to complete the final case disposition.
6. **Deputy Responsibilities:** Upon assignment of a declined case notification, the 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 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 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 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 of the IR Memorialization shall be completed in Blue Team within 14 business days of receiving the document reporting the event.

1. The division commander's review should incorporate a review of the supervisor that first signed off on the report.
 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.
- 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 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*.