

Kern County Sheriff's Office

Internal Affairs Unit

2023 Annual Report

Complaint Statistics



## **Introduction:**

The Kern County Sheriff's Office has an expectation that all of its members, both on-duty and off-duty, conduct themselves according to standards set forth in policies and procedures, the law, and the expectations of the Sheriff-Coroner and people of Kern County.

The Sheriff's Office recognizes that in order to maintain public trust, it must diligently investigate all civilian complaints to establish the facts surrounding the given incident. When it is determined that misconduct has occurred, the involved employee(s) must be afforded due process and held accountable through a disciplinary process that is not only fair, but consistently applied. It is equally important to enhance public trust by conducting prompt, thorough and impartial investigations. The complaint process allows for an objective assessment of how Kern County Sheriff's Office employees are performing or being perceived by members of the community. Conversely, it also serves to enhance the trust of employees if their actions are determined to be properly aligned with law and policy.

All internal investigations involving misconduct will follow the Sheriff's Office investigative standards, the Peace Officer Procedural Bill of Rights (Government Code § 3300 et seq.) as applicable, and current statutory and case law. All employees of the Sheriff's Office are afforded their rights in accordance with the Peace Officer Procedural Bill of Rights, as well as other applicable laws. Some of these requirements include, but are not limited to, that the investigation must be completed and must notify the employee(s) of the proposed discipline by a Letter of Intent or Notice of Adverse Action articulating the discipline within one year of the discovery of the misconduct by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. Pursuant to case law, the one-year time period for an administrative investigation to be concluded starts when a supervisor discovers or is made aware of alleged misconduct. There are, however, several reasons for which the one-year statute of limitation may be tolled which include but is not limited to the following:

- The act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution; the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.
- Involved employee waives the one-year time period in writing.
- The investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.
- The investigation involves more than one employee and requires a reasonable extension.

This also allows for a thorough investigation to be conducted, balancing public trust with the rights of employees. Investigations are conducted in an impartial manner, while maintaining a high degree of confidentiality to comply with these various laws and policies. The Kern County Sheriff's Office will continue to conduct fact-based investigations regarding employee misconduct. All employees have a right to an appeal or written response to any proposed discipline. The appeal will either uphold or modify the proposed discipline for the employee. At the conclusion of the investigation, the involved employees and any complaining parties or "complainants" will also receive a written notification outlining the disposition of their complaint.

Complaints can be filed in person at Sheriff's Office Headquarters (1350 Norris Road, Bakersfield, Ca 93308), the Internal Affairs Unit Office (34970 McMurtrey Avenue, Second Floor, Bakersfield, Ca 93308) or by visiting any of the Sheriff's Office substations or select county facilities. Complaints can also be submitted by turning in a Kern County Sheriff's Office Personnel Complaint Form either, online at <https://www.kernsheriff.org/complaints>, over the phone, by mail, by electronic mail or by fax. You can email your complaint to [internalaffairs@kernsheriff.org](mailto:internalaffairs@kernsheriff.org) or fax your complaint to (661) 391-7637. You can call the Sheriff's Office Internal Affairs Unit at (661) 392-6791 or contact our non-emergency number at

(661) 861-3110 and request to speak to the Watch Commander. Complaints can be made by anyone, including being made anonymously.

Some complaints can be immediately referred to the respective employee's supervisor for a quick resolution, and some may require a more extensive formal investigation, or may be a matter addressed through other means. This report will hopefully serve to educate both the public and employee(s) about personnel complaint processes and data for the year 2023.

### **Internal Affairs Unit:**

In order to ensure that all personnel complaint investigations are thorough, fair, and resolved in a timely manner, the Internal Affairs Unit serves as the central coordinator and quality control hub for all personnel complaint intakes, investigation and review processes, even for those cases not requiring a full administrative investigation.

Personnel assigned to perform an Internal Affairs investigation have full staff authority of the Sheriff-Coroner to order employees to cooperate fully during Internal Affairs investigations and to answer questions if they are the subject of the investigation. All members of the Sheriff's Office who are witnesses in an administrative investigation are obligated to cooperate and answer truthfully and completely all questions asked by the Internal Affairs investigator.

The Internal Affairs Unit consists of one (1) Sheriff's Sergeant, five (5) Senior Deputy Sheriffs, one (1) Administrative Coordinator, one (1) Sheriff's Support Specialist, and one (1) Sheriff's Support Technician. This unit is managed by one (1) Sheriff's Lieutenant and one (1) Sheriff's Commander. The Internal Affairs Unit is a part of the Personnel Division, Administrative Investigations Section.

### **Definitions:**

**Allegation:** A claim of wrongdoing made against a member of the Sheriff's Office.

**Complaint:** An allegation that the Sheriff's Office or some member thereof (sworn or non-sworn) committed an act or omitted a duty that, if true, would be illegal or a violation of Department policy. Complaints can be made by members of the public or Sheriff's Office personnel.

**Discipline:** The corrective action taken on a sustained complaint such as termination, demotion, suspension, reduction in salary, documented oral counseling (DOC), verbal counseling, written reprimand, or a disciplinary transfer. Some of these are considered punitive and some are considered non-punitive, but both serve as forms of corrective action.

**Disposition:** The status assigned to each allegation within a complaint by the Sheriff, Undersheriff, or Chief Deputy following conclusion of the investigation based on a preponderance of the evidence.

**Preponderance:** The weight of the evidence (greater than 50%) supports the disposition for the particular allegation, e.g., sustained, not sustained, exonerated, and unfounded.

For further definitions and information, refer to the Frequently Asked Questions (FAQ) section of this report.

### **Reporting Requirements and Categorization of Complaints:**


Every year, the Sheriff's Office dutifully submits its complaint statistics to the California Department of Justice (PC 13020/13012/13010). The table below reflects an annual report that is submitted by the Sheriff's Office to the California Department of Justice. It's also worth noting that these reports are due in January of the following year, so for example, the 2022 report was due in January 2023.

For 2023, there were a total of **312** complaints made against KCSO’s sworn peace officers. These numbers include both Department Initiated Complaints and Public Complaints. **147** of these complaints stemmed from a civilian in a non-custodial setting, such as patrol, and **165** stemmed from inmates. Of these **312** complaints, **19** of them contained allegations related to “Racial or Identity Profiling.”

In comparison, in 2022 KCSO received a total of **255** complaints made against KCSO’s sworn peace officers. For further information regarding 2022 complaint statistics, refer to the 2022 Annual Report Complaint Statistics. The increase in complaints in 2023 is largely due to how the Internal Affairs Unit investigates, and tracks complaints for statistical purposes. The categories presented in this report represent the overall category or primary allegation of the original complaint. This may include other lesser allegations or other additional allegations that were discovered during the course of the investigation. If additional allegations other than what was alleged in the original complaint were discovered the Internal Affairs Unit would bifurcate the investigations. This was done in order to more accurately track and categorize or classify the complaints. Bifurcating in this manner causes an increase in overall complaints.

The following table reflects the format annual report that was submitted by the Sheriff’s Office to the California Department of Justice in 2023. The instructions for completing the above table are also below.

## Annual Statistics Reported to CA DOJ

	STATE OF CALIFORNIA BCIA 724 (Rev. 12/2015)	DEPARTMENT OF JUSTICE Page 2 of 2
<b>ANNUAL REPORT OF CITIZENS' COMPLAINTS AGAINST PEACE OFFICERS</b>		
<b>INSTRUCTIONS</b>		
<ol style="list-style-type: none"> <li>1. All reporting agencies shall report the total number of complaints, broken out by non-criminal, misdemeanor and felony complaints. In addition to total complaints, Police and Sheriff's Departments shall also include the number of complaints made from inmates that have been admitted to their local detention facility (city or county jail).</li> <li>2. Enter the total number of complaints alleging racial or identity profiling, as well as the specific type(s) of racial or identity profiling alleged. "Racial or identity profiling," is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.</li> <li>3. Definitions of citizens' complaints and the method of their calculation should be determined by each police agency under Penal Code 832.5, which requires police agencies to establish procedures to investigate such complaints and make written description of the procedures used.</li> <li>4. While reporting agencies have the discretion to determine the scope and format of citizen complaints and reporting procedures, at a minimum, agencies must report the data elements listed above.</li> <li>5. The primary unit of count should be the actual event. An event is defined as an occurrence of alleged misbehavior which has unity of time, place, and behavior. In some circumstances where there are multiple alleged victims, consideration should be given to modifying the counting procedure to account for the number of victims.</li> <li>6. Enter the number of complaints "reported" during the reporting year in the reported column opposite the "type" of complaint which properly identifies it.</li> <li>7. Enter the number of complaints "sustained" during the year in the "sustained" column opposite the appropriate type of complaint which properly identifies it. Sustained is defined as the investigation disclosed sufficient evidence to prove the truth of allegation in the complaint by the preponderance of evidence.</li> <li>8. Enter the number of complaints "exonerated" during the year in the "exonerated" column opposite the type of complaint which properly identifies it. Exonerated is defined as the investigation clearly established that the actions of the personnel that formed the basis of the complaint are not a violation of law or agency policy.</li> <li>9. Enter the number of complaints "not sustained" during the year in the "not sustained" column opposite the type of complaint which properly identifies it. Not sustained is</li> </ol>	<ol style="list-style-type: none"> <li>defined as the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation in the complaint.</li> <li>10. Enter the number of complaints "unfounded" during the year in the "unfounded" column opposite the type of complaint which properly identifies it. Unfounded is defined as the investigation clearly established that the allegation is not true.</li> <li>11. Enter the number of complaints reported in this reporting year that are still "pending."</li> <li>12. Complaint type definitions:                         <ol style="list-style-type: none"> <li>a. Race or ethnicity bias is defined as a preformed negative opinion or attitude toward a group of persons, such as Asians, blacks, or whites, based on physical characteristics or toward a group of persons of the same race who share common or similar traits in language, custom, and tradition.</li> <li>b. Nationality bias is defined as a preformed negative opinion or attitude toward a group of persons based on their national origin.</li> <li>c. Gender bias is defined as a preformed negative opinion or attitude toward a group of persons based on their gender.</li> <li>d. Age bias is defined as a preformed negative opinion or attitude toward a group of persons based on their age.</li> <li>e. Religion bias is defined as a preformed negative opinion or attitude toward a group of persons based on religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being. Examples are Catholics, Jews, Protestants, or Atheists.</li> <li>f. Gender identity or expression bias is defined as a preformed negative opinion or attitude toward a group of persons based on how that group chooses to identify or express their gender preference.</li> <li>g. Sexual orientation bias is defined as a preformed negative opinion or attitude toward a group of persons based on sexual preferences and/or attractions toward and responsiveness to members of their own or opposite sexes.</li> <li>h. Mental disability bias is defined as a preformed negative opinion or attitude toward a group of persons based on mental impediments/ challenges, whether such disabilities are congenital or acquired by heredity, accident, injury, advanced age, or illness.</li> <li>i. Physical disability bias is defined as a preformed negative opinion or attitude toward a group of persons based on physical impediments/ challenges, whether such disabilities are congenital or acquired by heredity, accident, injury, advanced age, or illness.</li> </ol> </li> <li>13. If you have no reported, sustained, exonerated, not sustained, unfounded, or pending complaints to report for the year, write the word "none" across the face of the report form and return to the Criminal Justice Statistics Center.</li> </ol>	

ANNUAL REPORT OF CITIZENS' COMPLAINTS AGAINST PEACE OFFICERS						
TYPE OF COMPLAINT	NUMBER REPORTED	NUMBER SUSTAINED	NUMBER EXONERATED	NUMBER NOT SUSTAINED	NUMBER UNFOUNDED	PENDING
<b>Total Complaints</b>	147	4	3	20	70	50
Non Criminal	147	4	3	20	70	50
Misdemeanor	-	-	-	-	-	-
Felony	-	-	-	-	-	-
<b>Total Complaints Made in Local Detention Facilities</b>	165	14	8	19	68	56
Non Criminal	165	14	8	19	68	56
Misdemeanor	-	-	-	-	-	-
Felony	-	-	-	-	-	-
<b>Total Racial and Identifying Profiling Complaints</b>	19	-	-	3	8	8
<b>Racial and Identifying Complaints by Type</b> (may add up to more than total above)						
Race or Ethnicity	14	-	-	3	7	4
Nationality	-	-	-	-	-	-
Gender	-	-	-	-	-	-
Age	-	-	-	-	-	-
Religion	-	-	-	-	-	-
Gender Identity or Expression	4	-	-	-	-	4
Sexual Orientation	-	-	-	-	-	-
Mental Disability	-	-	-	-	-	-
Physical Disability	1	-	-	-	1	-

## Annual Statistics for Kern County Sheriff's Office

It's important to note that the data in the above section only pertains to civilian complaints made against sworn peace officers. However, the Internal Affairs Unit accepts and investigates complaints made against all employees of the Sheriff's Office, not just those who are sworn law enforcement officers. Last year, the Kern County Sheriff's Office received a total of **512** complaints.

Many of these complaints, **392** (76.56%), came from members of the public. Meanwhile, the remaining **120** (23.44%) complaints were initiated from within the Sheriff's Office. Whether the complaint is initiated by a member of the public or KCSO personnel, KCSO categorizes the complaint based on the overall issue or problem being reported. However, it's important to note that a single complaint may contain several different allegations or concerns stemming from the original issue. Therefore, it's crucial for the complaint to be thoroughly reviewed and investigated to ensure that all relevant details and potential violations are addressed. The charts show each complaint categorized by primary allegation.

We understand the importance of addressing all complaints in a timely and appropriate manner, as it is crucial in maintaining trust and safety within our community.

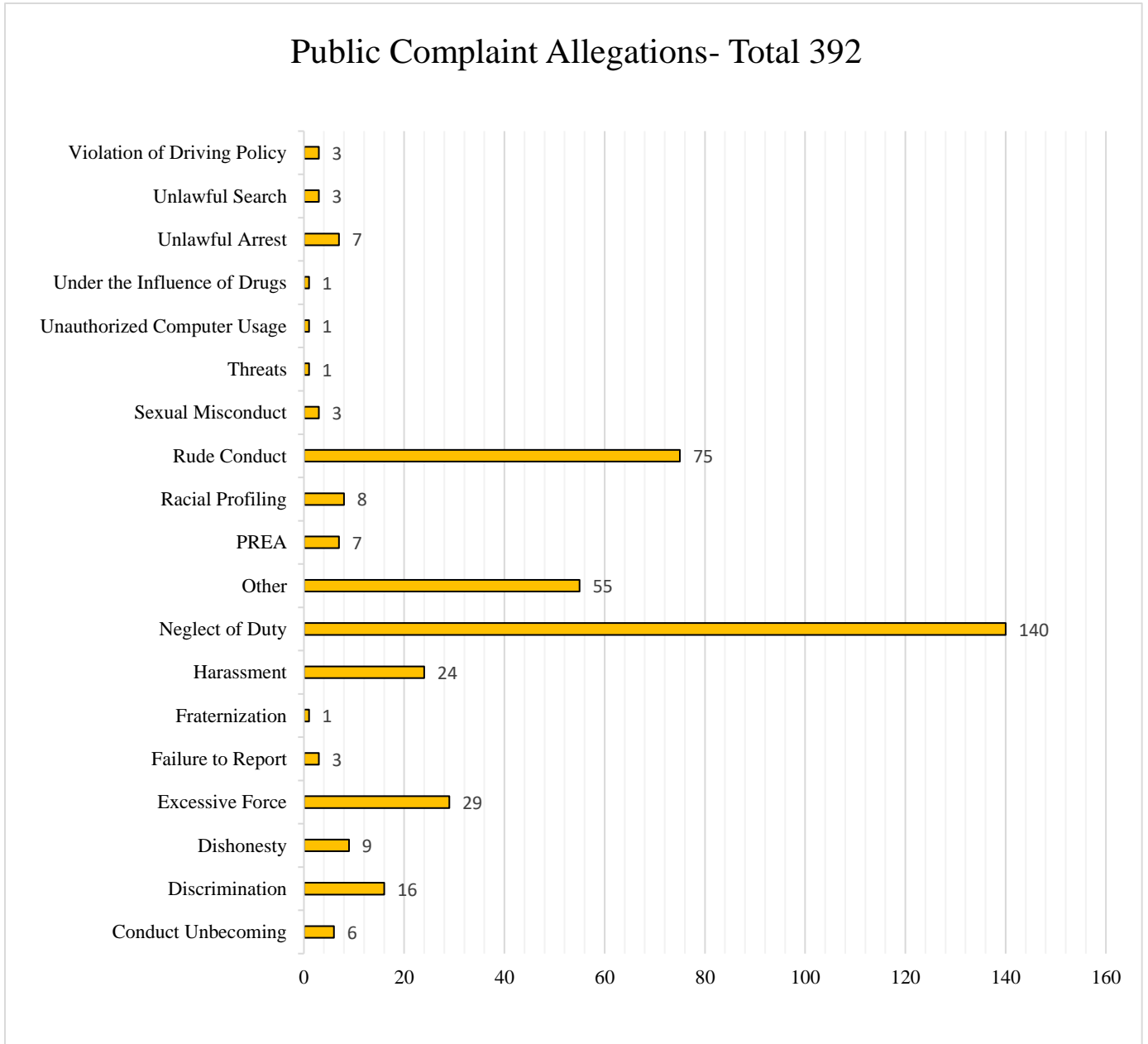
### Public Complaints:

Any member of the public can file a complaint on a Sheriff's Office employee. Complaints can also be made anonymously. Complainants may not always be directly involved, but may be a third-party (e.g., a witness or bringing forward a complaint on another's behalf) or by someone else not directly involved in the interaction with the Sheriff's Office employee (e.g., a member of the public watching a video that may

contain possible misconduct). Regardless of the source, a complaint may allege misconduct by multiple Sheriff's Office employees, and it may contain multiple allegations with different dispositions.

When a complaint is brought to the attention of the Sheriff's Office, it is categorized based on the overall issue or problem being reported.

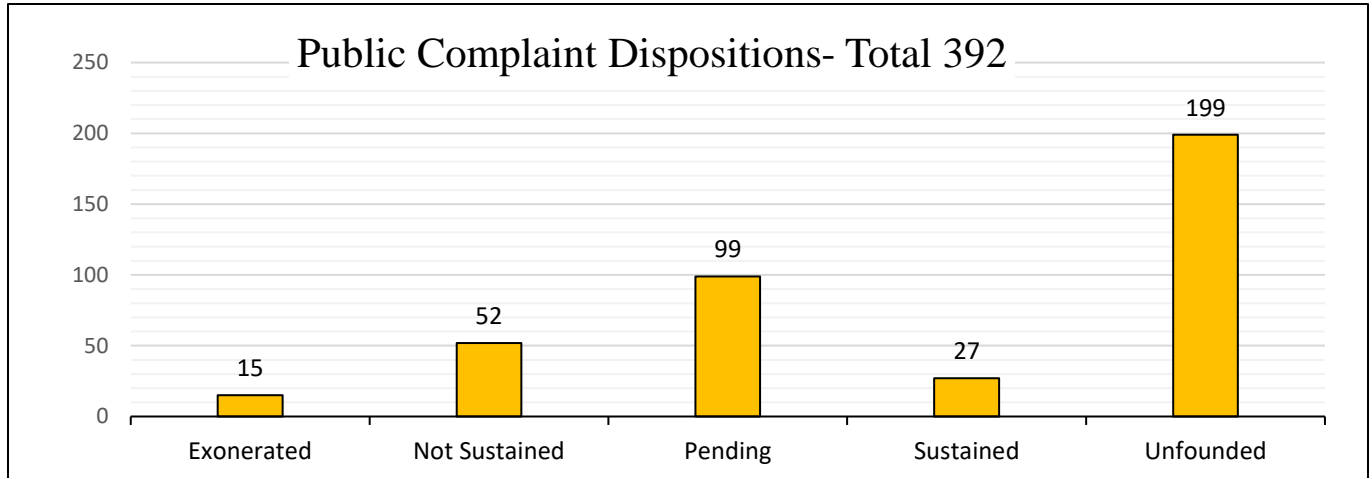
2023 -Total Public Complaints – By Allegation



1

<sup>1</sup> BWC – Body Worn Camera, PPV – Personal Patrol Vehicle Program, PREA – Prison Rape Elimination Act

2023 -Total Public Complaints – By Disposition



2023 – Total Public Complaints – By Allegation & Disposition

Public Complaint- Allegation/Disposition						
Allegation	Pending	Exonerated	Not Sustained	Sustained	Unfounded	Grand Total
Conduct Unbecoming	1	-	-	-	5	6
Discrimination	4	-	3	-	9	16
Dishonesty	-	1	2	-	6	9
Excessive Force	3	1	3	-	22	29
Failure to Report	1	-	-	-	2	3
Fraternization	1	-	-	-	-	1
Harassment	10	1	2	-	11	24
Neglect of Duty	36	7	21	15	61	140
Other <sup>2</sup>	15	2	6	4	28	55
PREA <sup>3</sup>	1	1	1	-	4	7
Racial Profiling	3	-	2	-	3	8
Rude Conduct	21	1	9	8	36	75
Sexual Misconduct	1	-	-	-	2	3
Threats	-	-	-	-	1	1
Unauthorized Computer Usage	-	-	-	-	1	1
Under the Influence of Drugs	1	-	-	-	-	1
Unlawful Arrest	1	-	-	-	6	7
Unlawful Search	-	1	-	-	2	3
Violation of Driving Policy	-	-	3	-	-	3
<b>Grand Total</b>	<b>99</b>	<b>15</b>	<b>52</b>	<b>27</b>	<b>199</b>	<b>392</b>

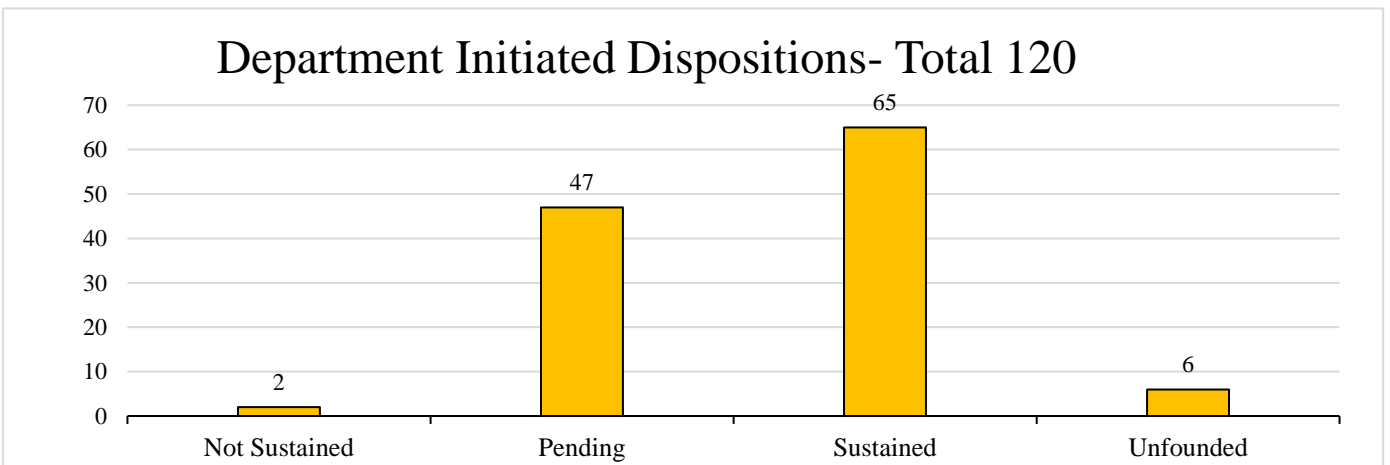
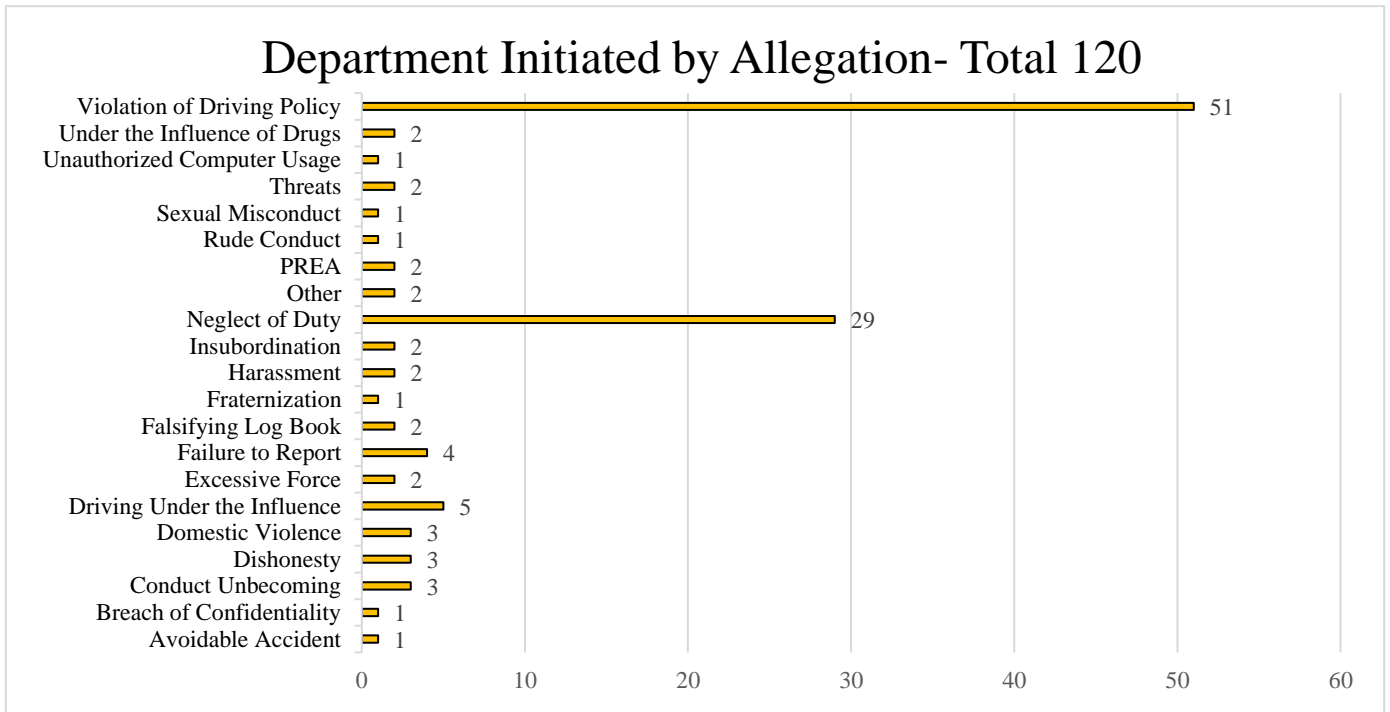
<sup>2</sup> Other is a Misdemeanor/Infraction Crime Allegation

<sup>3</sup> Prison Rape Elimination Act Allegation

**Department Initiated Complaints:**

Department Initiated complaints are those initiated by any member of the Sheriff’s Office. This can occur when an employee believes a policy and/or criminal violation has occurred and reports the allegation to other department members. This can also occur when the Sheriff’s Office is made aware of potential misconduct through other means (e.g., employee arrested). These are often internal accountability driven complaints, in which there was no external member of the public initiating the complaint.

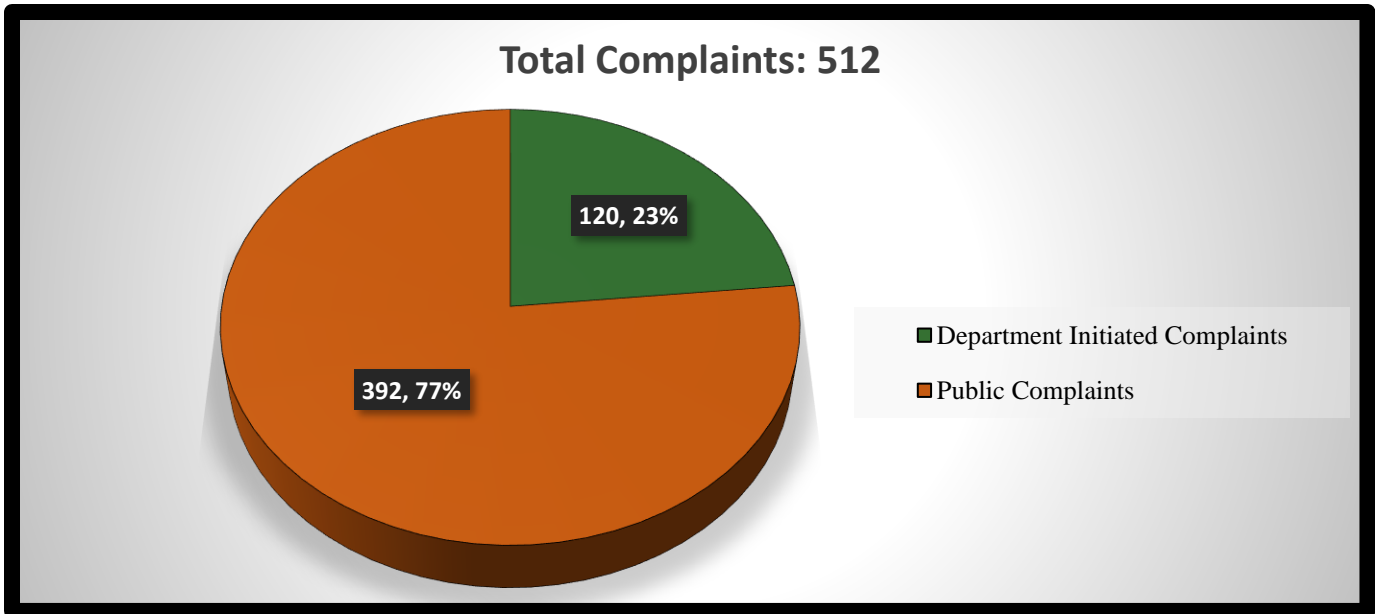
**2023 -Total Department Initiated Complaints – By Allegation & Disposition**





2023 -Total Department Initiated Complaints – By Allegation & Disposition

Department Initiated- Allegation/Disposition						
Allegation	Pending	Exonerated	Not Sustained	Unfounded	Sustained	Grand Total
Avoidable Accident	-	-	-	-	1	1
Breach of Confidentiality	1	-	-	-	-	1
Conduct Unbecoming	2	-	-	1	-	3
Dishonesty	3	-	-	-	-	3
Domestic Violence	1	-	-	1	1	3
Driving Under the Influence	3	-	-	-	2	5
Excessive Force	2	-	-	-	-	2
Failure to Report	1	-	-	-	3	4
Falsifying Logbook	1	-	-	-	1	2
Fraternization	1	-	-	-	-	1
Harassment	1	-	1	-	-	2
Insubordination	2	-	-	-	-	2
Neglect of Duty	7	-	-	-	22	29
Other <sup>4</sup>	1	-	-	1	-	2
PREA	-	-	-	2	-	2
Rude Conduct	1	-	-	-	-	1
Sexual Misconduct	-	-	-	1	-	1
Threats	2	-	-	-	-	2
Unauthorized Computer Usage	1	-	-	-	-	1
Under the Influence of Drugs	2	-	-	-	-	2
Violation of Driving Policy	15	-	1	-	35	51
<b>Grand Total</b>	<b>47</b>	<b>0</b>	<b>2</b>	<b>6</b>	<b>65</b>	<b>120</b>



<sup>4</sup> Other is an infraction crime allegation

## **Discipline:**

The term “discipline” refers to the corrective action taken on a “Sustained” allegation, which can include, but is not limited to termination, demotion, suspension, reduction in salary, documented oral counseling (DOC), verbal counseling, written reprimand, or a disciplinary transfer. When any finding of misconduct requires the imposition of discipline, such discipline is taken in an informed, reasonable, timely, fair, and uniform fashion.

Discipline serves three (3) major purposes:

- 1) It corrects the employee’s behavior.
- 2) It lets other employees know the behavior is not acceptable and will not be tolerated.
- 3) It keeps the faith and restores trust with the public.

There are several factors that are weighed when imposing discipline:

- Seriousness of the offense
- Impact or potential impact on the Sheriff’s Office and its members
- Employee’s work history and acceptance of responsibility
- Employee’s prior disciplinary history
- Impact on public trust

The discipline does not have to be punitive to the subject employee but should have the goal of addressing and correcting the performance and/or misconduct. The Public Safety Officer Procedural Bill of Rights (POBRA), Government Code 3303, defines punitive action as “any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.” Discipline is imposed only on sustained allegations. Some non-punitive options to correct performance can include but are not limited to documented oral counseling (DOC), performance improvement plan (PIP), verbal admonishment, adverse performance rating (EPR-Needs Improvement), and additional or remedial training. A DOC is essentially a verbal admonishment that is memorialized in writing. Any such non-punitive corrective action is not considered discipline within the meaning of POBRA but are included here because they are appropriate to use in correcting behavior. Multiple variations of discipline can be imposed on an employee for the same investigation/allegations (e.g., a written reprimand and a disciplinary transfer from current assignment).

Please find the below chart depicting the resolution of all complaints categorized by primary allegation in 2023. It is important to note that the categories presented here represent the overall category of complaint but may include other allegations. For instance, for an allegation of excessive force the investigation may reveal that the use of force was justified but may find other procedural policy violations (such as failing to properly document the use of force). Another example is a complaint made against a Sheriff’s Office employee for discrimination during a traffic stop. After investigating, it may be discovered that the discrimination allegation was unfounded; however, it may have revealed the employee was speeding just before conducting a traffic stop on the complainant. The raw data of the statistics would show a sustained finding (for speeding) during the overall investigation into discrimination, but a “sustained” finding and type of discipline does not necessarily mean it was related to the basis of the overall initial complaint.

It is important to note when reviewing the statistics showing discipline in aggregate format, it is not always possible to tell the whole story using raw numbers. Due to confidentiality laws, it is also not always possible to provide more detail regarding these incidents. Regardless of the reason for the initial complaint, a thorough investigation is completed, and corrective action is undertaken when applicable,

to ensure employees are performing at the highest standard of conduct possible. This report is intended to shed light on these efforts to the extent allowed by law.

Public Complaints- Allegations/Discipline								
Allegations	Pending	No Action Warranted <sup>5</sup>	Verbal Counseling	Documented Oral Counseling	Employment Agreement/AA	Remedial Training	Written Reprimand	Grand Total
Conduct Unbecoming	1	5	-	-	-	-	-	6
Discrimination	4	12	-	-	-	-	-	16
Dishonesty	-	9	-	-	-	-	-	9
Excessive Force	3	26	-	-	-	-	-	29
Failure to Report	1	2	-	-	-	-	-	3
Fraternization	1	-	-	-	-	-	-	1
Harassment	10	14	-	-	-	-	-	24
Neglect of Duty	41	89	1	7	1	-	1	140
Other	15	36	1	2	-	1	-	55
PREA	1	6	-	-	-	-	-	7
Racial Profiling	3	5	-	-	-	-	-	8
Rude Conduct	24	46	1	4	-	-	-	75
Sexual Misconduct	1	2	-	-	-	-	-	3
Threats	-	1	-	-	-	-	-	1
Unauthorized Computer Usage	-	1	-	-	-	-	-	1
Under the Influence of Drugs	1	-	-	-	-	-	-	1
Unlawful Arrest	1	6	-	-	-	-	-	7
Unlawful Search	-	3	-	-	-	-	-	3
Violation of Driving Policy	-	3	-	-	-	-	-	3
<b>Grand Total</b>	<b>107</b>	<b>266</b>	<b>3</b>	<b>13</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>392</b>

For 2023, there were a total of **392** Public Complaints made against KCSO employees. **266** (57.45%) of these complaints were determined to be Not Sustained, Unfounded or Exonerated. There were **99** (21.38%) complaints still pending at the end of 2023, and **27** (5.83%) complaints contained at least one allegation that was Sustained. Again it is important to note that the categories presented here represent the overall category or primary allegation of the original complaint. With that said, this may include other lesser allegations or other additional allegations that were discovered during the course of the investigation. This is important to note as the discipline represented may not be for the underlying primary allegation that served as the basis for the complaint.

<sup>5</sup> "No Action Warranted" means the complaint was found to be Not Sustained, Exonerated, or Unfounded.

**Department Complaints- Allegations/Discipline**

<b>Allegations</b>	<b>Documented Oral Counseling</b>	<b>Documented Oral Counseling Remedial Training</b>	<b>Documented Oral Counseling Written Reprimand</b>	<b>Drug Testing Suspension</b>	<b>No Action Warranted<sup>6</sup></b>	<b>Pay Reduction</b>	<b>Pending</b>	<b>Reduction of vacation</b>	<b>Retired Prior to Disposition of IA</b>	<b>Termination</b>	<b>Verbal Counseling</b>	<b>Verbal Counseling Remedial Training</b>	<b>Written Reprimand</b>	<b>Written Reprimand Remedial Training</b>	<b>Grand Total</b>
Avoidable Accident	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1
Breach of Confidentiality	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
Conduct Unbecoming	-	-	-	-	1	-	2	-	-	-	-	-	-	-	3
Dishonesty	-	-	-	-	-	-	2	-	1	-	-	-	-	-	3
Domestic Violence	-	-	-	-	1	-	1	-	-	1	-	-	-	-	3
Driving Under the Influence	-	-	-	1	-	1	3	-	-	-	-	-	-	-	5
Excessive Force	-	-	-	-	-	-	1	-	-	-	-	-	1	-	2
Failure to Report	2	-	-	-	-	-	1	-	-	-	-	-	1	-	4
Falsifying Logbook	-	-	1	-	-	-	1	-	-	-	-	-	-	-	2
Fraternization	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
Harassment	-	-	-	-	1	-	1	-	-	-	-	-	-	-	2
Insubordination	-	-	-	-	-	-	2	-	-	-	-	-	-	-	2
Neglect of Duty	6	-	1	-	-	-	5	-	1	-	1	1	14	-	29
Other	-	-	-	-	1	-	1	-	-	-	-	-	-	-	2
PREA	-	-	-	-	2	-	-	-	-	-	-	-	-	-	2
Rude Conduct	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
Sexual Misconduct	-	-	-	-	1	-	-	-	-	-	-	-	-	-	1
Threats	-	-	-	-	-	-	2	-	-	-	-	-	-	-	2
Unauthorized Computer Usage	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
Under the Influence- Drugs	-	-	-	-	-	-	2	-	-	-	-	-	-	-	2
Violation of Driving Policy	9	16	-	-	1	-	15	-	1	-	-	-	4	5	51
<b>Grand Total</b>	<b>17</b>	<b>16</b>	<b>2</b>	<b>1</b>	<b>8</b>	<b>1</b>	<b>43</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>20</b>	<b>5</b>	<b>120</b>

For 2023, there were a total of **120** Department Initiated Complaints made against KCSO employees. Eight (6.67%) of these complaints were determined to be Not Sustained, Unfounded or Exonerated. There were **47** (39.17%) complaints still pending at the end of 2023, and **65** (54.17%) complaints contained at least one allegation that was Sustained. Again it is important to note that the categories presented here represent the overall category or primary allegation of the original complaint. With that said, this may include other lesser allegations or other additional allegations that were discovered during the course of

<sup>6</sup> "No Action Warranted" means the complaint was found to be Not Sustained, Exonerated, or Unfounded.

the investigation. This is important to note as the discipline represented may not be for the underlying primary allegation that served as the basis for the complaint.

### **Frequently Asked Questions (FAQ):**

#### **How to file a personnel complaint?**

Complaints can be filed in person at Sheriff's Office Headquarters (1350 Norris Road, Bakersfield, Ca 93308), the Internal Affairs Unit Office (34970 McMurtrey Avenue, Second Floor, Bakersfield, Ca 93308) or by visiting any of the Sheriff's Office substations or select county facilities. Complaints can also be submitted by turning in a Kern County Sheriff's Office Personnel Complaint Form either, online at <https://www.kernsheriff.org/complaints>, over the phone, by mail, by electronic mail or by fax. You can email your complaint to [internalaffairs@kernsheriff.org](mailto:internalaffairs@kernsheriff.org) or fax your complaint to (661) 391-7637. You can call the Sheriff's Office Internal Affairs Unit at (661) 392-6791 or contact our non-emergency number at (661) 861-3110 and request to speak to the Watch Commander. Complaints can be made by anyone, including being made anonymously.

#### **What is a personnel complaint?**

A personnel complaint is an allegation of misconduct by an employee of the Kern County Sheriff's Office, which if found sustained, could result in disciplinary action against the employee.

#### **Who can file a personnel complaint?**

A complaint may be filed by anyone who is dissatisfied with the conduct of an employee.

#### **What is the investigative process?**

Personnel complaints are taken very seriously. Complaints are assigned to Internal Affairs Investigators or supervisory staff within the Sheriff's Office depending on the allegations. Regardless, a thorough investigation is complete which includes collecting evidence, interviewing witnesses, and presenting the investigation to command staff to determine if any county or department policies were violated.

#### **How long does a personnel complaint investigation take?**

California Government Code 3300 dictates that all personnel complaints against peace officers be completed within one year of the complaint unless otherwise extended due to extenuating circumstances. [Govt. Code 3304(d)]

#### **Will I be notified regarding the outcome of my personnel complaint?**

Yes, after all the evidence and interviews are obtained, the investigator files a report which is reviewed by command staff personnel. The Sheriff's Office administration reviews the completed investigation and at the conclusion of the review, one of four dispositions will be determined for each allegation of misconduct. The complainant will be notified by letter of the disposition of their complaint. [Penal Code 832.7]

#### **Will I be informed of the employees' discipline regarding my complaint?**

California law states sworn peace officer/civilian personnel records are confidential and can only be divulged through a special court order during criminal or civil proceedings. This means you will be notified of the disposition of your complaint, but by law, the Sheriff's Office cannot divulge any specific information regarding the policy violations, such as disciplinary and administrative actions imposed on employees.

### **What is considered punitive or disciplinary action?**

Discipline can include, but is not limited to dismissal, demotion, suspension, reduction in salary, transfer for purposes of punishment, and written reprimand.

### **What is considered non-punitive or non-disciplinary action?**

Some non-punitive options to correct performance can include but are not limited to documented oral counseling (DOC), performance improvement plan (PIP), verbal admonishment, adverse performance rating (EPR-Needs Improvement), and additional or remedial training.

### **What are the Definitions of the Dispositions?**

- **Exonerated**: The allegation occurred; however, the investigation revealed that it was justified, lawful, and proper.
- **Not Sustained**: Investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
- **Sustained**: The investigation disclosed sufficient evidence to conclude the allegation occurred.
- **Unfounded**: The investigation conclusively proved that the act, or acts, complained of did not occur. This finding also applies when the individual member(s) named were not involved in the act or acts which may have occurred.

Definitions of dispositions can also be found in the Sheriff's Office Policy and Procedures Manual D-100. [Penal Code 832.5]

### **What does it mean when an Internal Affairs investigation has been authorized?**

This indicates that the Sheriff's Office has reviewed the allegations, and they will be formally investigated. Per Kern County Sheriff's Office Policy, only a Chief Deputy or above may authorize an Internal Affairs investigation. However, pursuant to case law, the one-year time period for an administrative investigation to be concluded starts when a supervisor discovers or is made aware of alleged misconduct. This is an important distinction when determining the one-year statute of limitations for each case. [Jackson v. City of Los Angeles (2003) 111 Cal.App.4th 899]

### **Why does it take so long to investigate my personnel complaint?**

Personnel complaint investigations involve a thorough in-depth investigation into the allegations to determine if any Kern County Sheriff's Office Policy or County of Kern Policy was violated. These investigations require collection of evidence, conducting interviews, collecting documentation, and authoring reports. There are also many other variables involved, such as availability of witnesses, complainants, employees, representatives. In some instances, the case may be tolled for a variety of reasons, which are outlined in POBRA (Govt. Code 3304(d)).

### **What is the review process and who makes these findings?**

Once the investigation is completed, the report and all evidence and documentation are provided to the involved employee's Commander and Chief Deputy for review to determine any policy violations or disciplinary and administrative actions. If the commanding officers of the employee(s) make any "sustained" findings, they will make a recommendation on whether to impose discipline at their level or if there is a need to forward the case to the Disciplinary Review Board for consideration of greater discipline. Five Chief Deputies, or their designee, serve as the Disciplinary Review Board (DRB). The Internal Affairs Unit will present the case to the DRB, who will either uphold, modify, or overturn findings as to each allegation. If any allegations are sustained, the DRB will make a recommendation for discipline.

The Internal Affairs Unit will prepare the notice of discipline, as well as any notification letters to the employee(s)/complainant(s).

### **What does it mean when an employee is placed on administrative leave?**

Administrative leave can come in two forms: disciplinary and non-disciplinary. Disciplinary administrative leave means allegations have been made against an employee, which does not permit the Sheriff's Office to allow the employee to continue working until the investigation is completed. Non-disciplinary administrative leave means an employee is under investigation for an event that occurred during their normal course of duty, which requires special attention. It is not an indication that the employee did anything improper but may warrant further review. Examples may include, but are not limited to: Critical Incident Reviews, Medical Restrictions, Fitness for Duty, etc.

### **What is the standard of proof for Internal Affairs investigations?**

The evidence presented in the investigation must be weighed using the preponderance of evidence standard. This means that the weight of the evidence must support, more likely than not, the disposition for the particular allegation, such as sustained, not sustained, exonerated, or unfounded. It's important to note that beyond a reasonable doubt, which is used in criminal law, is a much higher standard of proof than preponderance of evidence.

### **Will an employee continue to be paid while under investigation?**

Yes, employees under investigation are entitled to due process and will usually continue to be paid until the review process has been completed. If discipline is warranted, reduction of pay or suspension are possible disciplinary actions depending upon the circumstances.

### **Who does the Public Safety Officers Procedural Bill of Rights Act (POBRA) apply to?**

For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code.

In other words, this applies to all sworn peace officers employed by the Kern County Sheriff's Office except for Deputy Coroners and Reserve Deputy Sheriffs. However, the Kern County Sheriff's Office affords POBRA protections to all employees, including civilian employees.

### **Why are civilian employees granted the same rights?**

Because POBRA is more restrictive, doing so ensures we comply with other mandated rights for unionized employees, commonly referred to as Weingarten Rights. Civilian employees have a right to have a representative of choice present in any administrative interview, if there is a reasonable belief by the employee that their responses may result in discipline. There is no duty to inform civilian employees of this right, but if requested it must be allowed. [NLRB v. J. Weingarten, Inc., 420 U.S. 251 (1975)]

Government Code 3508.1 affords some of the same rights to civilian "police employees," which includes the 1-year statute of limitations and tolling exceptions, as well as the requirement that the employee must be notified of the discipline to be imposed, within 30-days of the decision.

### **What happens if you don't comply with POBRA?**

It is unlawful to deny or refuse any officer the rights and protections guaranteed by this chapter. Any finding of a violation can result in a restraining order or injunction barring any punitive action being taken against the officer. A public agency or its agents that maliciously violate any provision shall, for every violation, be liable for a civil penalty for up to \$25,000 to be awarded to the officer. In addition, such a

violation may result in overturning the discipline, authorizing back pay, and an award of attorney's fees. [Henneberque v. City of Culver City (1985) 172 Cal. App. 3d 837]

### **Does POBRA apply to criminal investigations against peace officers?**

No. An employee under criminal investigation will be investigated in the same manner as a member of the public and retains the same rights. If an employee invokes a right to silence, any order to cooperate will be viewed as a compelled statement, which will turn the criminal investigation into an administrative investigation. No statement made during interrogation by a public safety officer under duress, coercion, or threat of punitive action shall be admissible in any subsequent civil proceeding, except to impeach the testimony of the officer. However, after such an admonishment is made, under the Lybarger Decision their silence and unwillingness to cooperate can be deemed insubordination in an Administrative Investigation, which can result in administrative discipline. [Govt. Code 3303(f)] [Lybarger v. City of LA]

### **Are any statistics on personnel complaints available to the public?**

Yes, this annual report serves to increase transparency and enhance public/employee trust. This report may be accessed on the Kern County Sheriff's Office website, on the "Transparency Page" under "Annual Reports." This report will be produced annually, in conjunction with our annual submission of data to California DOJ in accordance with Penal Code 13012.

In addition, the Kern County Sheriff's Office reports statistics of Civilians' Complaints Against Peace Officers (CCAPO) to the California Department of Justice (DOJ) annually. CA DOJ makes this information available to the public on the Open Justice Portal on the DOJ website.

#### California Department of Justice – Civilians' Complaints Against Peace Officers

<https://openjustice.doj.ca.gov/data>

The California Racial & Identity Profiling Act (RIPA) Board produces annual reports related to stop data, which includes recommendations and analyses of complaints from all law enforcement agencies in California, including the Kern County Sheriff's Office.

#### California RIPA Board Reports – Complaint Sections:

<https://oag.ca.gov/ab953/board/reports#current>

### **Where can I review KCSO Policies and other County Regulations?**

You can view the Kern County Sheriff's Office Policies on our website, under KCSO Policies.

<https://www.kernsheriff.org/Policies>

In addition, further guidance surrounding the appeals process may be found in the Kern County Civil Service Rules (CSR). Specifically, CSR 1700 et seq. relates to causes for dismissal, suspension, reduction and appeal procedures. CSR 1800 relates to additional protocols relating to complaints based on workplace discrimination and harassment.

#### County of Kern Civil Service Rules:

<https://www.kerncounty.com/government/other-agencies/civil-service-commission/civil-service-rules>

### **What if I have further questions?**

If you have any questions or want to inquire the status of your complaint, please contact the Internal Affairs Unit at (661) 392-6791.