

MARICOPA COUNTY SHERIFF'S OFFICE

Bureau of Internal Oversight

Audits and Inspections Unit



County Attorney/Justice Court Turndowns January 2019

Inspection # BI2019-0001

The Audits and Inspections Unit (AIU) of the Sheriff's Office Bureau of Internal Oversight (BIO) will conduct monthly County Attorney/Justice Court Disposition Inspections.

The purpose of this inspection is to determine if cases turned down for prosecution by a prosecutorial agency or cases involving the dismissal of charges were due to an "irreversible error" by the investigator, as well as determining adherence to policy and law by Office personnel.

Irreversible errors may include but are not limited to the following: violations of an individual's civil rights, the incorrect charge or classification of the crime being charged, the untimely submittal of charge(s) resulting in exceeding the statute of limitations, or a case lacking a thorough and/or proper investigation. Additionally, any error or combination of errors occurring as a result of actions, or lack of due diligence on behalf of Office personnel, which once committed cannot be reversed and potentially factoring into or resulting in a case being turned down or charge(s) dismissed, will result in the determination that the case involved an "irreversible error".

The inspection will also identify any other perceived deficiencies which may fall outside the scope of the inspection, such as issues not deemed as irreversible errors but that the Inspector determines to be a potential violation of policy, law, or industry best practices/standards.

Perceived deficiencies determined by the Inspector that are outside of scope of the inspection will not affect the overall compliance rate of the inspection; however, will still result in the issuance of a BIO Action Form for the deficiency to be addressed by the employee's chain of command through the BIO Action Form process. If the noted deficiency has previously been addressed and documented by a supervisor, the corrective action taken shall be documented through the BIO Action Form process for tracking Inspection Report compliance.

Inspectors will utilize the "IAPro" program software to generate turndown dispositions entered into IAPro by the Early Intervention Unit (EIU) each month from the Superior Court and dismissals from the Justice Courts within the specific month to be inspected. The terms "turndown" and "dismissals" are generic nomenclature (from the courts) and refer to a variety of court dispositions. No bias shall be implied or inferred as to the reason of the court disposition based on these generic terms.

These entries will be uniformly inspected by primarily utilizing the Records Division "FileBound" database and a matrix developed by the AIU. Each complainant disposition inspected will be counted as one inspection. The following procedures, which are outlined in GF-5 and ED-3, will be used in the matrix.

Matrix Procedures:

- Determine if there were any “irreversible errors”
- Note other potential violations of policy, law, or best practices
- Note what district/division from which the disposition originated
- Note the County Attorney disposition reason/type
- Note the Sheriff’s Office method of charging (In-Custody/Booking, Citation, or Long-form)

Criteria:

MCSO Policy EA-11, *Arrest Procedures*

MCSO Policy CP-2, *Code of Conduct*

Briefing Board # 17-17; Policy change to GF-5, *Incident Report Guidelines*

MCSO Policy GF-5, *Incident Report Guidelines*

Melendres Order, Paragraph 75

MCSO Policy ED-3, *Review of Cases Declined for Prosecution*

MCSO Policy ED-3, *Review of Cases Declined for Prosecution*, provides a mechanism for command level review of the same cases involved in this inspection to identify/address minor issues and/or additional training issues/concerns that are outside the scope of this inspection.

Conditions:

All County Attorney Turndown dispositions from the Maricopa County Superior Court for the month of January 2019 available in IAPro **68 cases** were reviewed.

There were approximately 122 criminal cases with charge(s) dismissed from the Maricopa County Justice Courts available in IAPro for that month. A random selection of 20 of these cases were also selected for review. A total of **88 cases** were reviewed for this inspection.

The primary focus of this inspection is on the identification of “irreversible errors.” During the inspection of the Superior Court and Justice Court turndowns, there were no irreversible errors noted. This resulted in a **100%** compliance rate for January 2019.

There are **14** other perceived deficiencies that are outside the scope of “irreversible error” and will not be calculated into the compliance rate for this inspection.

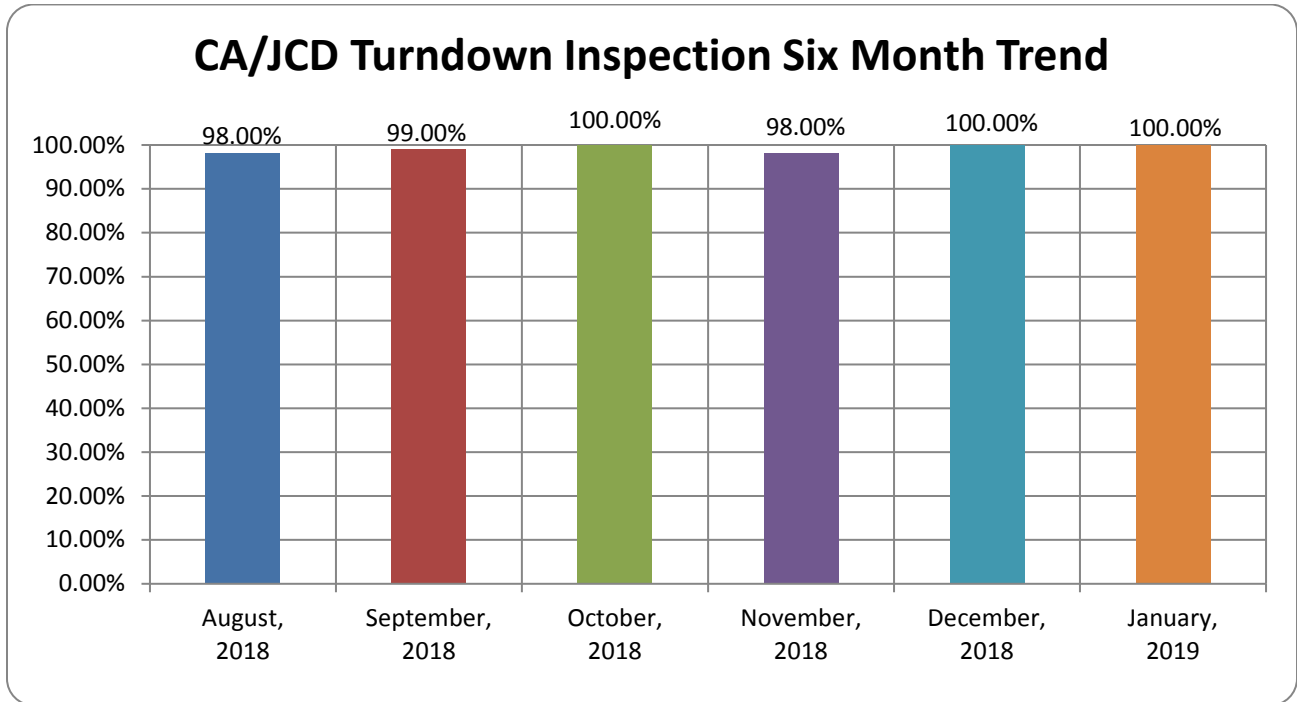
IR	C.A Allegation	Booking	Citation	Submittal
IR18030092	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18024859	MCAOTN - 6102 - Defendant sentenced in other case; no need to prosecute this matter	No	No	Yes
IR18035275	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18034672	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18030733	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18033204	MCAOTN - 6109 - Self Defense/Mutual Combat	No	No	Yes
IR17022955	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18014130	MCAOTN - 6109 - Self Defense/Mutual Combat	No	Yes	Yes
IR18012797	MCAOTN - 6106 - This case should be used as an aid to prosecution of other case(s)	Yes	No	Yes
IR18014646	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18025217	MCAOTN - 6118 - Victim/Witness unavailable	No	No	Yes
IR18016132	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18005034	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18029001	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17020338	MCAOTN - 6102 - Defendant sentenced in other case; no need to prosecute this matter	No	No	Yes
IR18026420	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18036152	MCAOTN - 6113 - No reasonable likelihood of conviction - [No allegations]	Yes	No	Yes
IR17033523	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18003196	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18004613	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18001714	MCAOTN - 6106 - This case should be used as an aid to prosecution of other case(s)	No	No	Yes
IR18036300	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes

IR	C.A Allegation	Booking	Citation	Submittal
IR18031955	MCAOTN - 6109 - Self Defense/Mutual Combat	No	No	Yes
IR18011819	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18019931	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17006566	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18023041	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18002103	MCAOTN - 6105 - This case should be referred to other criminal prosecuting agency	No	No	Yes
IR18003098	MCAOTN - 6113 - No reasonable likelihood of conviction	No	Yes	No
IR18032557	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18031752	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18015116	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18017486	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18031596	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR16011773	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR16027940	MCAOTN - 6157 - Old case/stale MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR13168792	MCAOTN - 6157 - Old case/stale	Yes	Yes	Yes
IR18025765	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17038416	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR17029521	MCAOTN - 6157 - Old case/stale	No	No	Yes
IR17018481	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18019399	MCAOTN - 6106 - This case should be used as an aid to prosecution of other case(s)	Yes	No	Yes
IR14028552	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17002010	MCAOTN - 6128 - Double Jeopardy would result	No	No	Yes
IR17021035	MCAOTN - 6106 - This case should be used as an aid to prosecution of other case(s)	No	No	Yes

IR	C.A Allegation	Booking	Citation	Submittal
IR18033451	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17030701	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18003127	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18031443	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18032131	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18017804	MCAOTN - 6109 - Self Defense/Mutual Combat	Yes	Yes	Yes
IR16026636	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18035171	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18033253	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18019288	MCAOTN - 6102 - Defendant sentenced in other case; no need to prosecute this matter	No	No	Yes
IR18030633	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18031411	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR15012077	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18030076	MCAOTN - 6116 - Victim/Witness reluctance/refusal to prosecute	No	No	Yes
IR18000187	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18008977	MCAOTN - 6147 - Inadequate evidence of Corpus	No	No	Yes
IR18013414	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18010802	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18031940	MCAOTN - 6128 - Double Jeopardy would result	Yes	Yes	Yes
IR16031433	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18028637	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18032160	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR19001092	MCAOTN - 6104 - This case should be submitted to city prosecutor	Yes	No	Yes

IR#	MC#	JCD Allegation	Booking	Citation	Submittal
IR18018756	MC18141185	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18018164	MC18137092	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18009939	MC18077853	JCD - Dismissed on motion of court or defendant	Yes	Yes	No
IR18035359	MC18265821	JCD - Dismissed on motion of court or defendant	No	Yes	No
IR17005910	MC17050960	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18025945	MC18196300	JCD - Dismissed on motion of court or defendant	No	Yes	No
IR18021789	MC18163768	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18036024	MC18270482	JCD - Dismissed on motion of court or defendant	No	Yes	No
IR17028064	MC17228881	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18022051	MC18165933	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18025089	MC18189694	JCD - Dismissed on motion of court or defendant	No	Yes	No
IR18031507	MC18237710	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18016184	MC18123340	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18027461	MC18207568	JCD - Dismissed on motion/request of prosecutor	Yes	Yes	No
IR18031867	MC18240161	JCD - Dismissed on motion/request of prosecutor	Yes	Yes	No
IR18026058	MC18197158	JCD - Dismissed on motion of court or defendant	No	Yes	No
IR18017208	MC18130544	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18024536	MC18185524	JCD - Dismissed on motion/request of prosecutor	No	Yes	No
IR18033380	MC18251524	JCD - Dismissed on motion of court or defendant	No	Yes	No
IR18011379	MC18088969	JCD - Dismissed on motion/request of prosecutor	No	Yes	No

Overall Compliance Rate for CA/JCD Turndown Inspections



Non- Compliance Deficiencies

District I (2 BIO Action Forms):

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5041-District I	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
<p>1. Reader is unable to locate documentation as to why a physical arrest wasn't made. EA-8.2.C Form 4 states that the subject "knowingly caused physical injury."</p> <p>Inspector Note: Victim was initially transported to hospital; however, no documentation that "victim will be protected from further injury," as required by policy EA-8.</p> <p>2. Reader able to find only declined prosecution notice for female defendant although case clearance states Deputy received notice of declined prosecution on <i>both</i> subjects.</p>						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5041-District I	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
<p>1. Reader unable to locate evidence to support elements of the charged offense.</p>						

District II (3 BIO Action Forms):

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. Citation not used as a complaint in the booking process. - EA-8.2.B.1						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. Reader unable to locate documented attempt(s) to interview suspect.						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. No property receipt for knife seized from suspect as evidence. Policy GE-3.3.D						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. Deputy documents suspect being in custody and then collecting a voluntary statement without documentation of Miranda.						
Inspector Note: This was addressed via IRM2018-0017 so no BAF is required.						

District III (0 BIO Action Forms):

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5043-District III	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. No property receipt for itemized receipt (evidence) from business. Policy GE-3.3.D						
Inspector Note: Deputy is no longer employed so no BAF is required.						

District IV (3 BIO Action Forms):

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5044-District IV	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. Property receipt provided contained blood kit. - Briefing Board 17-43.						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5044-District IV	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. Reader is unable to locate probable cause on form 4. Inspector Note: Body of incident report (IR) does articulate probable cause for the submittal of charges.						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5044-District IV	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. Deputy notes in report that he doesn't believe culpable mental state of "knowingly" is met but he submits charges.						

District VI (1 BIO Action Form):

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5056-District VI	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted
Deficiency						
1. Reader unable to locate documentation showing order was verified through OIC as valid and current.						

District VII (2 BIO Action Forms):

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5045-District VII	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted

Deficiency

1. Reader feels there may be a Miranda issue as Deputy explains overhearing the suspect talking about the incident and asks him to explain what he said while in the back of his patrol car. This appears to be an interrogative question while in custody.

Inspector Note: This was addressed via supervisor note 2018-00059297 so no BAF is required.

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5045-District VII	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted

Deficiency

1. Reader unable to locate documentation showing the firearm had been given a new NCIC number when it was seized and impounded. Policy GE-3.11.B.2.b

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5045-District VII	Redacted	Redacted	Redacted	Redacted	Redacted	Redacted

Deficiency

1. Initial Deputy doesn't articulate how copy of surveillance video was obtained. No property receipt provided GE-3.3.D

Recommendations:

There were no irreversible errors in this December Inspection indicating diligence on behalf of Office personnel in overseeing and correcting potential errors which once committed cannot be reversed.

The number of other potential non-compliance deficiencies that have been routinely identified during the review of reports from this Inspection by BIO indicates that further review of reports by Case Agents and Supervisors is recommended prior to approval and submission of charges.

Some common issues noted include:

- No or weak articulation of probable cause for submitted charges
- Failure to provide property receipts when seizing owner property
- Weak or incomplete investigations resulting from not interviewing suspects, victims, and witnesses
- Inconsistent or inaccurate information provided in reports, supplements, and other forms

Supervisors are reminded that a supervisor's approval of the report indicates their agreement that the report contains all of the necessary elements of the legal basis for the action or all of the elements of a reported crime, if applicable.

A total of 11 BIO Action Forms are requested from the affected divisions for the perceived deficiencies listed. It is permissible to complete 1 BIO Action Form covering the same employee with the same perceived deficiency.

The form shall be completed utilizing Blue Team.

Date Inspection Started: February 4th, 2019
 Date Completed: February 26th, 2019
 Time frame Inspected: January 1st to January 31st, 2019

Assigned Inspector: Sergeant Rob Levy S1881

I have reviewed this inspection report.

W.C. Morrison #1509
 Capt. W. Cory Morrison S1509
 Commander
 Bureau of Internal Oversight

03/12/19
 Date