



ORANGE COUNTY FIRE AUTHORITY AGENDA

Human Resources Committee Regular Meeting

Tuesday, July 5, 2016

12:00 noon

Orange County Fire Authority Regional Fire Operations and Training Center

1 Fire Authority Road

Room AE117

Irvine, California 92602

Dave Shawver, Chair

Noel Hatch, Vice Chair

Gene Hernandez Al Murray Phil Tsunoda

This Agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action or discussion shall be taken on any item not appearing on the following Agenda. Unless legally privileged, all supporting documents, including staff reports, and any writings or documents provided to a majority of the Human Resources Committee after the posting of this agenda are available for review at the Orange County Fire Authority Regional Fire Operations & Training Center, 1 Fire Authority Road, Irvine, CA 92602 or you may contact Sherry A.F. Wentz, Clerk of the Authority, at (714) 573-6040 Monday through Thursday, and every other Friday from 8 a.m. to 5 p.m. and available online at <http://www.ocfa.org>

If you wish to speak before the Human Resources Committee, please complete a Speaker Form identifying which item(s) you wish to address. Please return the completed form to the Clerk of the Authority. Speaker Forms are available on the counter noted in the meeting room.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Clerk of the Authority at (714) 573-6040. Notification 48 hours prior to the meeting will enable the Authority to make reasonable arrangements to assure accessibility to the meeting.

CALL TO ORDER

PLEDGE OF ALLEGIANCE by Director Hernandez

ROLL CALL

PUBLIC COMMENTS

Any member of the public may address the Committee on items within the Committee's subject matter jurisdiction but which are not listed on this agenda during PUBLIC COMMENTS. However, no action may be taken on matters that are not part of the posted agenda. We request comments made on the agenda be made at the time the item is considered and that comments be limited to three minutes per person. Please address your comments to the Committee as a whole, and do not engage in dialogue with individual Committee Members, Authority staff, or members of the audience.

1. PRESENTATIONS

No Items.

2. MINUTES**A. Minutes from the May 3, 2016, Human Resources Committee Special Meeting**

Submitted by: Sherry Wentz, Clerk of the Authority

Recommended Action:

Approve as submitted.

3. CONSENT CALENDAR**A. Quarterly Human Resources Project Update**

Presented by: Brigette Gibb, Employee Relations Mgr/Human Resources Department

Recommended Action:

Receive and file the report.

4. DISCUSSION CALENDAR**A. Professional Standards Unit Progress Report**

Submitted by: Brian Young, Interim Director/Human Resources Department

Recommended Action:

Receive and file the report.

B. Award of RFP #JA2059 Internal Affairs Investigative Services

Submitted by: Brian Young, Interim Director/Human Resources Department

Recommended Action:

Review the proposed agenda item and direct staff to place the item on the agenda for the Executive Committee meeting of July 28, 2016, with the Human Resources Committee's recommendation that the Executive Committee:

1. Approve and authorize the Fire Chief to sign two Professional Services Agreements for internal affairs investigative services; one with Van Dermyden Maddux Investigations Law Firm (VDM), and the other with Sintra Group each with an initial one-year term in the amount of \$50,000 to be paid as services are provided.
2. Authorize the Purchasing Manager to redistribute or adjust the funding between the two firms as requested by the department so long as the aggregate amount does not exceed \$100,000 in a one-year period.
3. Approve and authorize the Purchasing Manager to extend each of the contracts for up to two additional one-year extensions without further Board approval so long as the aggregate amount of the two contracts does not exceed \$100,000 in any one-year period, the contract services are still required, and the contract performance meets expectations.

C. Policy for Investigating Complaints, Allegations, and Observations of Employee Misconduct

Submitted by: Brian Young, Interim Director/Human Resources Department

Recommended Action:

Review the investigations policy and direct staff to place the item on the agenda for the Executive Committee meeting of July 28, 2016, with the Human Resources Committee's recommendation to receive and file.

COMMENTS

INTERIM HUMAN RESOURCES DIRECTOR'S COMMENTS

LEGAL COUNSEL'S COMMENTS

COMMITTEE MEMBER COMMENTS

CLOSED SESSION

CS1. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(b) – Significant Exposure to Litigation
(29 cases)

CLOSED SESSION REPORT

ADJOURNMENT – The next regular meeting of the Human Resources Committee is scheduled for Tuesday, October 4, 2016, at 12:00 noon.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted in the lobby, front gate public display case, and website of the Orange County Fire Authority, Regional Training and Operations Center, 1 Fire Authority Road, Irvine, CA, not less than 72 hours prior to the meeting. Dated this 30th day of June 2016.

Sherry A.F. Wentz, CMC
Clerk of the Authority

UPCOMING MEETINGS:

Budget and Finance Committee Meeting	Wednesday, July 13, 2016, 12:00 noon
Claims Settlement Committee Meeting	Thursday, July 28, 2016, 5:00 p.m.
Executive Committee Meeting	Thursday, July 28, 2016, 5:30 p.m.
Board of Directors Meeting	Thursday, July 28, 2016, 6:00 p.m.

MINUTES

ORANGE COUNTY FIRE AUTHORITY

Human Resources Committee Special Meeting
Tuesday, May 3, 2016
12:00 PM

Regional Fire Operations and Training Center
Room AE117
1 Fire Authority Road
Irvine, CA 92602

CALL TO ORDER

The special meeting of the Orange County Fire Authority Human Resources Committee was called to order on May 3, 2016, at 12:00 p.m. by Chair Shawver.

PLEDGE OF ALLEGIANCE

Director Murray led the assembly in the Pledge of Allegiance to our Flag.

ROLL CALL

Present: Noel Hatch, Laguna Woods
Gene Hernandez, Yorba Linda
Al Murray, Tustin
David Shawver, Stanton
Phil Tsunoda, Aliso Viejo

Absent: None

Also present were:

Fire Chief Jeff Bowman	Assistant Chief Michael Schroeder
Assistant Chief Lori Smith	Assistant Chief Brian Young
Assistant Chief Lori Zeller	Communications Director Sandy Cooney
Legal Counsel Barbara Raileanu	Clerk of the Authority Sherry Wentz

PUBLIC COMMENTS

Ray Geagan, President, Orange County Professional Firefighters Association, Local 3631, spoke regarding the involvement of the Human Resources Committee during labor negotiations and addressed overtime compensation.

1. PRESENTATIONS

No items.

2. MINUTES

A. Minutes from the April 5, 2016, Regular Human Resources Committee Meeting (F:12.02D2)

On motion of Director Hernandez and second by Vice Chair Hatch, the Committee voted unanimously by those present to approve the Minutes from the April 5, 2016, regular meeting as submitted.

3. CONSENT CALENDAR

A. Awards of RFP #JA2059 for Pre-employment and Internal Affairs Investigative Services

Director Murray pulled this item to request information on a potential polygraph examination component.

On motion of Director Murray and second by Vice Chair Hatch, the Committee voted unanimously by those present to direct staff to place the item on the agenda for the Executive Committee meeting of May 26, 2016, with the Human Resources Committee's recommendation that the Executive Committee:

1. Approve an agreement with RCS Investigations and Consulting for Pre-employment Background Investigations in an amount not to exceed \$100,000 annually.
2. Approve an agreement with AVan Dermeyden Maddux Investigations Law Firm for Internal Affairs Investigative Services in an amount not to exceed \$50,000 annually.
3. Approve an agreement with Sintra Group for both Pre-employment Background Investigations and Internal Affairs Investigative Services in an amount not to exceed \$150,000 annually (\$100,000 for Pre-employment and \$50,000 for Internal Affairs Services).
4. Approve and authorize the Purchasing Manager to redistribute or adjust the \$300,000 between the three contracts as requested by the department so long as the aggregate amount does not exceed \$300,00 annually and to approve two additional renewal options based on need and contract performance.

4. DISCUSSION CALENDAR

A. EthicsPoint Hotline – Anonymous Reporting Capability

Assistant Chief Lori Zeller presented an overview of the development and implementation of the Fraud Hotline.

Minutes

OCFA Human Resources Committee Regular Meeting

May 3, 2016 Page 2

On motion of Director Hernandez and second by Director Murray, the Committee voted unanimously by those present to receive and file the report.

B. Coverage of Volunteers under the OCFA Self-Insured Workers' Compensation Program

Assistant Chief Brian Young provided a report on the Coverage of Volunteers under the OCFA Self-Insured Workers' Compensation Program.

On motion of Director Hernandez and second by Director Murray, the Committee voted unanimously by those present to place the item on the agenda for the Board of Directors' meeting of May 26, 2016, with the Human Resources Committee's recommendation that the Board:

1. Rescind Resolution No. 2012-08 in its entirety.
2. Adopt the proposed Resolution entitled: A RESOLUTION OF THE ORANGE COUNTY FIRE AUTHORITY BOARD OF DIRECTORS AUTHORIZING THE INCLUSION OF VOLUNTEERS WITHIN ITS WORKERS' COMPENSATION INSURANCE PROGRAM to provide workers' compensation coverage to volunteers under the OCFA's self-insured and excess workers' compensation program.

INTERIM HUMAN RESOURCES DIRECTOR'S REPORT (F: 12.02D6)

Interim Human Resources Director Brian Young provided an update on recruitments for sworn and non-sworn personnel. He also updated the Committee on the status of Academy 42 and preparations for Academy 43.

LEGAL COUNSEL'S COMMENTS (F: 12.02D7)

Legal Counsel Barbara Raileanu had no report.

COMMITTEE MEMBER COMMENTS (F: 12.02D4)

Director Murray commended Communications Director Sandy Cooney and Community Relations/Education Specialist Alex Pratt on their work with the OC Drowning Prevention Task Force.

Vice Chair Hatch commended the caliber of sworn and non-sworn personnel.

Director Hernandez commented on the Committee's responsibility to support the organization.

Chair Shawver spoke of a measure to repeal Stanton's .1 cent sales tax measure. He requested that an item be agendaized for the next HRC meeting relating to identifying the spokesperson for the agency.

CLOSED SESSION (F: 12.02D5)

Chair Shawver reported the Committee would be convening to Closed Session to consider the matter on the Agenda identified as CS1, Conference with Legal Counsel-Anticipated Litigation.

Chair Shawver recessed the meeting to Closed Session at 1:31 p.m.

CS1. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(b) – Significant Exposure to Litigation
(23 cases)

Chair Shawver reconvened the meeting at 1:39 p.m.

CLOSED SESSION REPORT (F: 12.02D5)

Legal Counsel Barbara Raileanu indicated the Committee had taken no reportable actions.

ADJOURNMENT - Chair Shawver adjourned the meeting at 1:40 p.m. The next special meeting of the Human Resources Committee is scheduled for Tuesday, June 7, 2016, at 12:00 noon.

Sherry A.F. Wentz, CMC
Clerk of the Authority



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
July 5, 2016

Agenda Item No. 3A
Consent Calendar

Quarterly Human Resources Project Update

Contact(s) for Further Information

Brigette Gibb, Employee Relations Mgr. bridgettegibb@ocfa.org 714.573.6353
Human Resources Department

Jonathan Wilby, Risk Manager jonathanwilby@ocfa.org 714.573.6832
Human Resources Department

Summary

This agenda item is submitted to provide the Human Resources Committee with a quarterly update on high priority projects of the Human Resources Department.

Prior Board/Committee Action

Not Applicable.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

The Human Resources Department includes two sections: 1) Employee Relations & Benefits; and 2) Risk Management. Employee Relations & Benefits is responsible for employee & labor relations, recruitment & selection, classification & compensation, employee benefits, and human resources information system (HRIS). Risk Management is responsible for worker's compensation, occupational health and safety, general liability & insurance, and security.

Attachment(s)

1. Quarterly Employee Relations & Benefits Project Update – April 1, 2016 through June 30, 2016
2. Quarterly Risk Management Project Update – April 1, 2016 through June 30, 2016

Employee Relations/Benefits Project Update July 5, 2016	Not Started
	In Progress
	Completed
PROJECTS:	
<p>#1 <u>PT Extra Help Accountant Recruitment</u> Status: 1. COMPLETED – position filled June 20, 2016 Next Step:</p>	
<p>#2 <u>College Recruiting</u> Status: 1. 15 Chapman University student-athletes attended an open house and tour of OCFA RFOTC in April. 2. Recruitment video was shared with Chapman student-athletes, BOD and OCFA staff. Next Steps: Expand outreach efforts to military personnel and continue college outreach in the fall.</p>	
<p>#3 <u>Adopt Affordable Care Act (ACA) Look Back Safe Harbor (LBSH) Policy</u> Status: 1. Policy drafted and reviewed by HR. Next Step: Share policy with executive management and labor associations.</p>	
<p>#4 <u>Guidelines on Personnel Files, Supervisor Logs, EMS Logs (and Poole Decision)</u> Status: 1. Policy drafted and reviewed by HR. Next Step: Share policy with executive management and labor associations.</p>	
<p>#5 <u>Posting of Mandatory Employment Posters</u> Status: 1. COMPLETED - When at fire stations for other purposes, Risk Management is auditing the bulletin boards and providing checklists to Employee Relations (ER) staff for review. Next Step:</p>	

Human Resources Project Update (continued) July 5, 2016	Not Started
	In Progress
	Completed
PROJECTS:	
<p>#6 <u>Document Process for Assigning Sexual Harassment (AB1825) Education & Training to Supervisors</u> Status: Next Step:</p>	
<p>#7 <u>Employee Relations Issue Tracking</u> Status: 1. Spreadsheet to track issues and progress has been developed. 2. Data has been entered for issues beginning March 2014 – current. Next Step:</p>	
<p>#8 <u>Create DOJ Policy for Livescan</u> Status: 1. Staff has signed off on confidentiality policy; only key staff who have been approved as custodian of record are receiving DOJ results. Next Step: Document the processes and safeguards which ensure confidentiality and compliance with DOJ agreement.</p>	
<p>#9 <u>Discipline Document Templates</u> Status: 1. COMPLETED - All templates have been created and are being utilized. Next Step:</p>	
<p>#10 <u>Create Job Bulletins for all FF Entry Points</u> Status: 1. Previous job bulletins have been located. 2. Drafts created. Next Step: Review/update for current requirements with promotional workgroup on July 19.</p>	


Human Resources Project Update (continued) July 5, 2016	Not Started
	In Progress
	Completed
PROJECTS:	
<p>#11 <u>DOT Random Drug Testing & DMV Pull Notice on Class Specs/Job Bulletins</u> Status: 1. Affected classifications have been identified and language for bulletins developed. Next Step: Updated the classifications with the new language.</p>	
<p>#12 <u>Probation Rejection Process for Firefighter Trainees</u> Status: 1. Meeting with Cadre staff was held. 2. Draft process is in progress. Next Step: Complete the draft process.</p>	
<p>#13 <u>Project Plan for Classification and Compensation Program Structure</u> Status: 1. Identified components of a Class & Comp Program. Next Step: Identify OCFA Class & Comp needs and deficiencies.</p>	
<p>#14 <u>Document Process for Safety Criminal Background Checks</u> Status: 1. Automatic background disqualifiers have been established. Next Step: Meet with the new firms (Sintra and RCS) to discuss process.</p>	
<p>#15 <u>Reference Check SOP/GO</u> Status: 1. Draft SOP in progress. Next Step: Legal counsel review.</p>	

Human Resources Project Update (continued) July 5, 2016	Not Started
	In Progress
	Completed
PROJECTS:	
<p>#16 <u>FBOR Pocket Guide for Supervisors</u> Status: 1. Pocket Guide has been selected and target audience identified. Next Step: Determine funding.</p>	
<p>#17 <u>ACA Health Coverage Plan for "FT" Extra Help Employees</u> Status: 1. A health coverage option has been identified. 2. Finance has provided an estimated cost for coverage. Next Step: Seek Executive Management approval; update the P&SR and seek HR Committee approval to place on Executive Committee agenda.</p>	
<p>#18 <u>ACA Cafeteria Plans/Firefighter Health Care Agreement</u> Status: 1. Legal counsel currently reviewing. Next Step:</p>	
<p>#19 <u>ACA Cadillac Tax</u> Status: 1. Not Started. Next Step: After #17 & #18 above are completed, request legal counsel.</p>	
<p>#20 <u>Develop or update key conduct policies and/or explore Lexipol as an option</u> Status: 1. Lexipol has been budgeted for FY 2016/17. Next Step: Determine if key policies should be developed now/before Lexipol implementation.</p>	

Human Resources Project Update (continued) July 5, 2016	Not Started
	In Progress
	Completed
PROJECTS:	
<p>#21 <u>Psychological Exams for Firefighters</u> Status: 1. Research on other agencies use of psychological exams completed. Next Step: Determine estimated costs; Seek HR Committee direction on pursuing RFP.</p>	
<p>#22 <u>NEOGOV PE (Performance Evaluation Software)</u> Status: 1. OCFA data has been entered. 2. Project timeline has been drafted. 3. HR staff training has commenced. Next Step: Pilot training with a small group of administrative managers to take place mid-July. Pending results, all administrative managers to use NEOGOV PE for the September evaluations.</p>	
<p>#23 <u>Cross Training for Back-Up</u> Status: 1. Staff has commenced cross-training in all functions. This will be an on-going emphasis. Next Step:</p>	

Risk Management Project Update July 5, 2016	Not Started
	In Progress
PROJECTS:	Completed
<p>#1 <u>Risk Management Staffing and Orientation</u> Status: Complete</p> <ol style="list-style-type: none"> 1. Risk Management Safety Officer hired on May 9, 2016. 2. Conducting thorough orientation of organization. 3. Environmental, Health and Safety Specialist approved in 2016/17 budget. <p>Next Step: Classification & Compensation study of Environmental, Health and Safety Specialist position.</p>	
<p>#2 <u>Workers' Compensation Oversight</u> Status: Complete</p> <ol style="list-style-type: none"> 4. Visiting all occupational clinics to ensure they continue to meet OCFA standards. 5. Monthly claims file audits with third party administrator. 6. Monthly meeting with Local 3631 to discuss any issues related to the program and build strong relationships. 7. Quarterly meeting with Local 3631 to discuss the progress of the alternative dispute resolution (ADR) program. 8. Quarterly meeting with third party administrator to discuss status of claims. <p>Next Step: On-going oversight.</p>	
<p>#3 <u>Annual Workers' Compensation Report</u> Status: In Progress</p> <ol style="list-style-type: none"> 1. Present annual workers' compensation report to the Human Resources Committee in October. <p>Next Step: Following fiscal year end, work with third party administrator to gather information and prepare report.</p>	
<p>#4 <u>Workers' Compensation Injury Analysis</u> Status: In Progress</p> <ol style="list-style-type: none"> 1. Develop report identifying trends in workers' compensation claims that can be used by Risk Management Safety Officer to implement corrective & preventive actions to reduce the frequency and severity of injuries. <p>Next Step: Update FY2015/16 trend analysis to include FY2016/17 data and hours prior to completing analysis.</p>	

Risk Management Project Update July 5, 2016	Not Started
	In Progress
	Completed
<p>#5 <u>Occupational Health and Safety Management System</u></p> <p>Status:</p> <ol style="list-style-type: none"> 1. Develop a coordinated and systematic approach to managing health and safety risks focused on continual improvement of safety performance, risk reduction, and compliance with health and safety legislation/standards. <p>Next Step: Revise the occupational health and safety committee procedure and hazard reporting procedure.</p>	
<p>#6 <u>Cancer Prevention</u></p> <ol style="list-style-type: none"> 1. Labor Management cross-functional workgroup implementing changes in equipment, procedures, and education to reduce the risk of cancer to OCFA personnel. 2. Draft standard operating procedures developed for: 1) turnout selection, care and maintenance; 2) post fire air monitoring; and 3) asbestos contamination. 3. Academy 42 is first group that will be issued a second set of turnouts with a purchase and distribution plan being developed for all operations employees to be issued a second set. 4. Respiratory protection changes and program revision in development. 5. Sunscreen dispensers being purchased and installed at all OCFA fire stations and RFOTC locations with employees who regularly work outdoors. 6. Grant submitted to purchase washer/extractors to be located in each battalion. 7. Standardized signage being placed in each fire station restricting turnouts from living and sleeping quarters. 8. Educational component (firefighter safety information) being developed which started with the firefighter safety stand down which took place on June 19, 22, and 23. <p>Next Step: Revise Respiratory Protection Program and provide SOPs to Executive Team for review.</p>	
<p>#7 <u>Heat Illness Prevention</u></p> <p>Status:</p> <ol style="list-style-type: none"> 1. Revise the Heat Illness Prevention Program to further reduce the risk of heat illness to OCFA personnel. <p>Next Step: Revise Heat Illness Prevention and Rehabilitation standard operating procedure. Implement changes to meal and electrolyte replacement supplies used in rehabilitation.</p>	

Risk Management Project Update July 5, 2016	Not Started
	In Progress
	Completed
<p>#8 <u>Transition Environmental Compliance Programs to Risk Management</u></p> <p>Status:</p> <ol style="list-style-type: none"> Following the hiring of the Environmental, Health and Safety Specialist, bring environmental programs that are spread through multiple departments under the Risk Management Section <p>Next Step: Classification & Compensation Study of Environmental, Health and Safety Specialist</p>	
<p>#9 <u>Post-Traumatic Stress Disorder (PTSD)</u></p> <p>Status:</p> <ol style="list-style-type: none"> Establish a program that addresses the impact of PTSD in OCFA personnel. <p>Next Step: Conduct gap analysis between current programs (Critical Incident Stress Debriefing (CISD), Benevolent Association, Chaplains Program, etc.) and best practices</p>	



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
July 5, 2016

Agenda Item No. 4A
Discussion Calendar

Professional Standards Unit Progress Report

Contact(s) for Further Information

Brian Young, Interim Director Human Resources Department	brianyoung@ocfa.org	714.573.6014
Brigette Gibb, Employee Relations Mgr. Human Resources Department	bridgettegibb@ocfa.org	714.573.6353

Summary

This agenda item is submitted to the Human Resources (HR) Committee to provide an update on the developmental progress of Professional Standards Unit (PSU).

Prior Board/Committee Action(s)

At its regular April 5, 2016, meeting, the HR Committee received and filed the first PSU Progress Report (attached).

At its regular November 3, 2015, and January 5, 2016, meetings, the HR Committee received oral updates on the development of the PSU by the HR Director.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

In an effort to increase consistency in HR functions and improve labor relations, Initiative 1.1 of the Fire Chief's annual goals calls for the establishment of a Professional Standards Unit. The intent of the PSU is to ensure timely and legally/contractually compliant administrative investigations, timely discipline, and consistency in imposed discipline.

Proposed Staffing/Structure

The HR Director will provide oversight to the PSU, which will consist of internal and external investigators. The 2016/17 fiscal year budget approved by the Board of Directors at the June 23, 2016 meeting included the unfreezing of one senior human resources analyst position, which will be assigned to the PSU. Additionally, two contract awards for investigative services are presented to the HR Committee in Agenda Item 4B.

Additional part-time support will be provided by the Employee Relations Manager, Human Resources Analyst, and Administrative Assistant.

Proposed Components

The intent of the PSU is to ensure timely and legally/contractually compliant administrative investigations, timely discipline, and consistency in imposed discipline. The HR Committee may want to direct staff to include a second phase to the PSU development, which could include other components, such as auditing, training, etc.

PSU Investigation Policy

An investigations policy has been drafted and is presented to the HR Committee in Agenda Item 4C. The draft policy provides context on the factors HR staff considers when making a determination to retain an external (versus internal) investigator to investigate employee misconduct and covers the following topics:

- Initiating a complaint
- Responsibility to inform HR
- Determining whether to investigate
- Determining level of investigation (issue flowchart drafted for HR/supervisor use)
- Investigator duties
- Investigation process
- Confidentiality
- Retaliation
- Recordkeeping

In the interest of labor relations, the policy has been provided to the labor groups for their input.

Policy Development

The 2016/17 fiscal year budget includes funding for the purchase of Lexipol, which will provide OCFA with more than 150 policies that reflect up-to-date, applicable industry standards and best practices based on federal and state statutes, case law, and regulations. Staff will work with labor groups to review, revise (as needed), and implement the policies.

Attachment(s)

April 5, 2016 HR Committee Agenda Item - PSU Progress Report



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
April 5, 2016

Agenda Item No. 4A
Discussion Calendar

Professional Standards Unit Progress Report

Contact(s) for Further Information

Brian Young, Assistant Chief Organizational Planning	brianyoung@ocfa.org	714.573.6014
Brigette Gibb, Employee Relations Mgr. Human Resources Department	brigettegibb@ocfa.org	714.573.6353

Summary

This item is to provide the Committee with an update on the progression of the proposed Professional Standards Unit.

Prior Board/Committee Action(s)

At its regular November 3, 2015, and January 5, 2016, meetings, the Human Resources Committee received oral updates on the development of the Professional Standards Unit by the Human Resources Director.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

In an effort to increase consistency in human resources (HR) functions and improve labor relations, Initiative 1.1 of the Fire Chief's annual goals calls for the establishment of a Professional Standards Unit (PSU). The intent of the PSU is to ensure timely and legally/contractually compliant administrative investigations, timely discipline, and consistency in imposed discipline.

Proposed Staffing/Structure

The Human Resources Director will provide oversight to the PSU, which will consist of internal and external investigators.

- Senior Human Resources Analyst – new position (proposed FY 2016/17)
- Contract Investigators – awarding contracts in April/May

PSU Investigation Policy

A policy has been drafted covering the following topics:

- Initiating a complaint
- Responsibility to inform HR
- Determining whether to investigate
- Investigation process
- Determining level of investigation
(See the attached issue flowchart drafted for HR/supervisor use.)
- Investigator duties
- Confidentiality
- Retaliation
- Recordkeeping

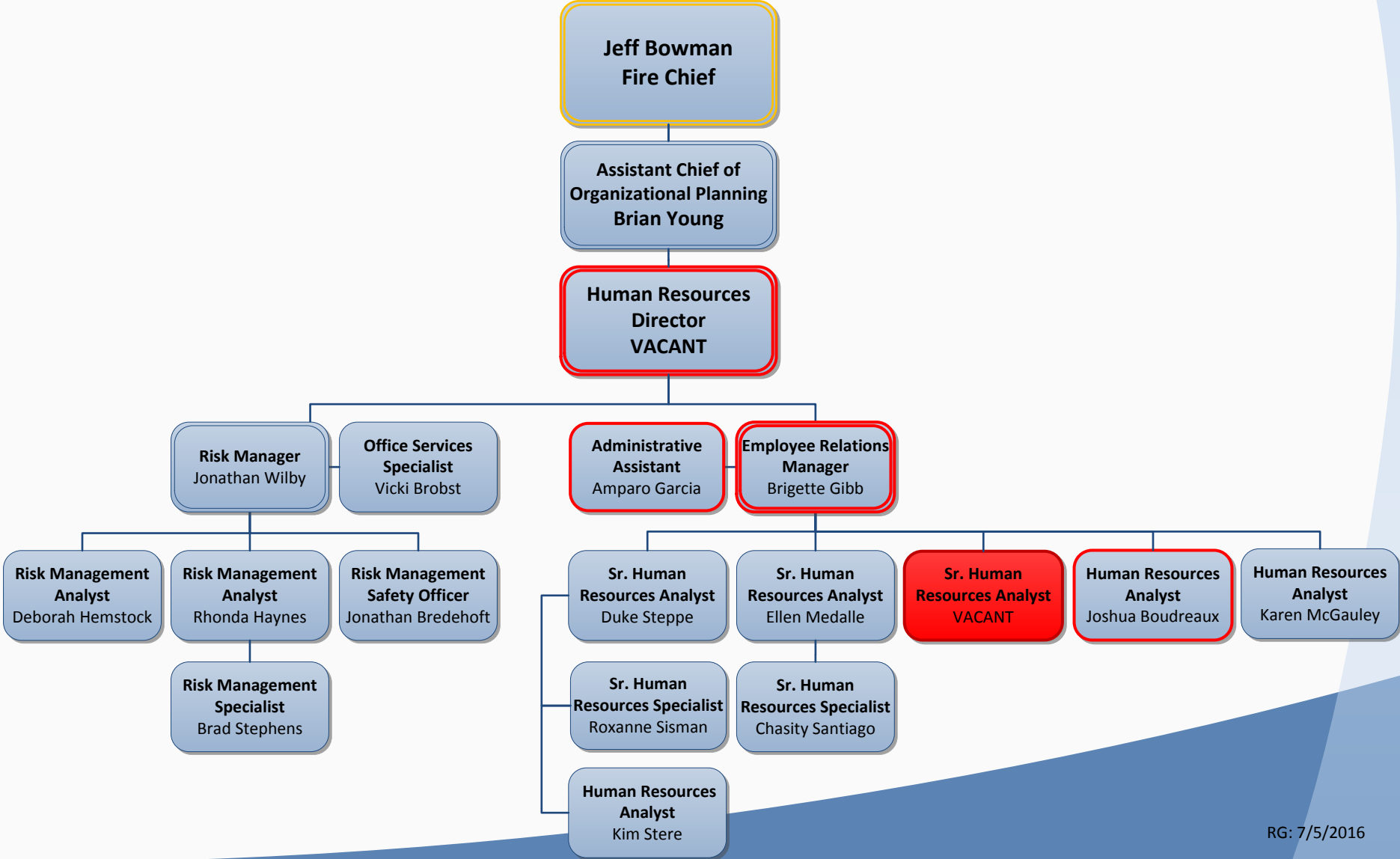
Policy Development

Staff is researching the feasibility and effectiveness of purchasing vendor provided and/or internally created key policies, such as employee conduct, retaliation, harassment, etc.

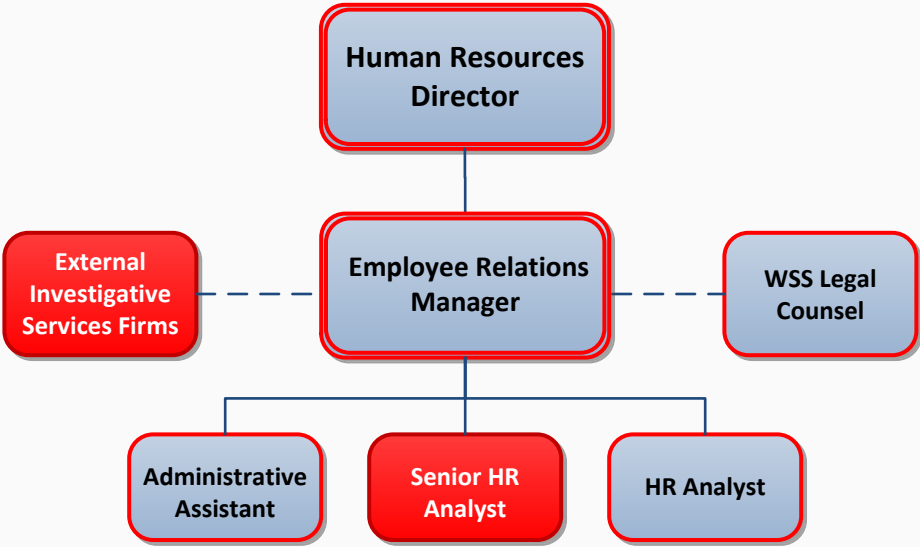
Attachment(s)

None.

Human Resources Department Operational Organization Chart



Professional Standards Unit (PSU) Proposed Organization Chart



PT Role

FT Role

Examples of Expanded PSU Scope

Chino PD

Started by Gene Hernandez

Spoke w/Sgt Thomicic

107 Officers

- IA Investigations
- **Background investigations (in-house)**
- **Civil liability**
- **Small claims (up to \$10,000)**
- **Recruitment (written, oral, conditional offer)**
- Property & Evidence

Irvine PD

Lt. Gary Wyatt. Dave Klug, Frank Anderson

Spoke w/Stephanie Womack

- **Public Records Act**
- **Claims**
- Pitchess Motions
- **Safety Inspections of PD Building**
- **Petty Cash Audit**
- Property & Evidence
- **Training Certificates**
- Confidential DMV Licenses
- Subpoenas
- **Use of Force Investigations**

OCFA

Investigations – PSU

Pre-Employment Background Investigations – Recruitment/External Investigators

Civil Liability/Small Claims – Risk Mgt

Recruitment – HR/Recruitment

Public Records Act/Subpoenas – Clerk of the Authority

Training Certifications – Training Section



Orange County Fire Authority
AGENDA STAFF REPORT

**Human Resources Committee Meeting
July 5, 2016**

**Agenda Item No. 4B
Discussion Calendar**

**Award of RFP #JA2059
Internal Affairs Investigative Services**

Contact(s) for Further Information

Brian Young, Interim Director Human Resources Department	brianyoung@ocfa.org	714.573.6014
Brigette Gibb, Employee Relations Mgr. Human Resources Department	brigettegibb@ocfa.org	714.573.6353

Summary

This agenda item is submitted to recommend approval of two contract awards for internal affairs investigative services to the two top ranked firms in the Request for Proposal (RFP) process.

Prior Board/Committee Action(s):

At its regular May 3, 2016, meeting, the Human Resource Committee reviewed and unanimously recommended approval of this item.

On May 26, 2016, the Executive Committee requested additional information prior to award of the contract for internal affairs. The questions that were asked by the Executive Committee and corresponding answers are provided in Attachment 1.

RECOMMENDED ACTION(S)

Review the proposed agenda item and direct staff to place the item on the agenda for the Executive Committee meeting of July 28, 2016, with the Human Resources Committee's recommendation that the Executive Committee:

1. Approve and authorize the Fire Chief to sign two Professional Services Agreements for internal affairs investigative services; one with Van Dermyden Maddux Investigations Law Firm (VDM), and the other with Sintra Group each with an initial one-year term in the amount of \$50,000 to be paid as services are provided.
2. Authorize the Purchasing Manager to redistribute or adjust the funding between the two firms as requested by the department so long as the aggregate amount does not exceed \$100,000 in a one-year period.
3. Approve and authorize the Purchasing Manager to extend each of the contracts for up to two additional one-year extensions without further Board approval so long as the aggregate amount of the two contracts does not exceed \$100,000 in any one-year period, the contract services are still required, and the contract performance meets expectations.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Funding is included in the proposed FY 2016/17 budget.

Background

At the May 26, 2016, Executive Committee Meeting, staff recommended the award for both internal affairs and pre-employment background investigative services in a combined staff report, since the solicitation for both service requests was combined. The Executive Committee requested that an investigations policy, which would address when an investigation should be assigned to an external investigator, be created prior to awarding contracts for the internal affairs investigative services.

Human Resources staff works with managers and supervisors to investigate personnel matters, such as employee misconduct. At times it is desirable to have an external investigator conduct the investigation in order to ensure impartiality when the allegations involve misconduct associated with potential liability, such as harassment, discrimination, retaliation, criminal activity, or high-level employees. Having a panel of external investigators will enhance the ability of Human Resources to conduct investigations in a thorough, objective, and timely manner. Currently, external investigators are retained through Woodruff, Spradlin & Smart (WSS). The hourly rate for these investigators has been \$320 - \$375. Another option for the HR Committee is to direct staff to continue the current practice of retaining investigators through WSS.

RFP Preparation

On October 15, 2015, RFP #JA2059 was issued seeking proposals from qualified firms with experience performing investigative services. The solicitation was sent to 383 firms registered with OCFA and an additional 250 external vendors. Six firms attended the non-mandatory pre-proposal meeting and eleven proposals for internal affairs investigative services were received. Five of the eleven firms that participated are located in Orange County.

The top four ranking firms were invited for interviews with the evaluation team. After the interviews and final scoring, the top two ranking firms were VDM and Sintra Group. Reference checks were conducted for both firms and feedback received was positive.

Award Recommendation

After the final scoring, it was determined that establishing multiple contracts with the two top ranking firms would provide the best option for OCFA. As a result of the best and final negotiations, VDM has limited future contract price increases in years two and three to the Consumer Price Index (CPI) for Los Angeles-Riverside-Orange County or 3% whichever is less of the two. This is a reduction from the contract increases of 10% in year two and 15% in year three provided in the initial proposal.

Based upon the evaluation and best and final results, staff is requesting that the HR Committee recommend that the Executive Committee authorize two contracts for internal affairs investigations as follows: VDM and Sintra Group both in an initial amount of up to \$50,000 annually and allow the Purchasing Manager to redistribute or adjust the funding between the two contracts as requested by the department, so long as the aggregate amount of both contracts does not exceed \$100,000 annually, and finally, approve the extension of two additional one-year renewal options (based on OCFA need and contract performance) without further approval.

Attachment(s)

1. Questions & Answers – Internal Affairs Investigative Services
2. Responses from Sintra Group
3. Responses from VDM
4. Summary of Proposals/Evaluation Results for Internal Affairs Investigations
5. Professional Services Agreements – on file with the Clerk of the Authority

Orange County Fire Authority
Excerpts from May 26, 2016 Executive Committee Meeting
Internal Affairs Investigative Services

Questions & Answers

This document provides a summarized list of questions and corresponding answers that were asked during the recent Executive Committee meeting on May 26, 2016. While some of the questions may have been addressed during the meeting, this document is meant to provide a summary of all questions and answers.

1. What is the term of these contracts and when would this item return to Executive Committee for additional approval?

Answer: The RFP defined the contract as a one-year term with an option to renew for up to two additional one-year periods. The recommended actions in the staff report were intended to mirror the RFP. Recommended Actions 1 through 3 in the staff report were requesting approval of the first one-year term for each firm, and Recommended Action 4 requested approval for two additional one-year renewal options, resulting in a maximum contract duration of three years for each firm. After three years, this contract would be sent out for a new competitive solicitation and the resulting contract awards would then require Executive Committee approval.

2. How does OCFA make the determination when internal affairs investigations will be sent to an outside law firm?

Answer: Currently Human Resources makes this determination based on a number of factors such as the nature of the issues involved (e.g. allegations of discrimination, harassment, or retaliation), complexity of investigation (e.g. criminal charges or high-level subject employees), and level of in-house resources.

3. Is OCFA going to have a policy on internal affairs investigations that governs how internal affairs investigations will be handled?

Answer: A policy on investigating complaints has been drafted to be presented to the Human Resources Committee in July. This policy documents what factors have been and would continue to be considered when making a determination on contracting out an investigation.

4. What has OCFA's past practice for internal affairs been? Has outside Counsel been used in the past?

Answer: When Human Resources determines the investigation should be conducted by an external investigator, the investigator (attorney) is retained through Woodruff, Spradlin, and Smart. Hourly rates for the last three attorney investigators were between \$320 - \$375.

5. Who is this law firm, Van Dermyden Maddux (VDM)?

Answer: VDM is a California Law Corporation formed in 2011 by Sue Ann Van Dermyden and Deborah Maddux. The main office is located in Sacramento and the firm has additional locations in

**Orange County Fire Authority
Excerpts from May 26, 2016 Executive Committee Meeting
Internal Affairs Investigative Services**

Questions & Answers

Oakland and Reno, Nevada. Sue Ann and Deborah each have 23 years of experience, including over 10 years exclusively conducting investigations. Each has conducted over 700 workplace investigations and supervises their team of seven California-licensed attorneys on investigations with hundreds involving internal affairs matters.

6. Who from Woodruff, Spradlin, and Smart (WSS) participated in reviewing VDM and what due diligence was done to determine this firm is competent to do internal affairs investigations?

Answer: No one from WSS was involved in the evaluation of the proposals received for the internal affairs investigative services RFP. The evaluation process followed was consistent with the standard RFP procedures. The evaluation team consisted of a Human Resources representative with extensive background in employee relations, a chief officer with background in investigations, and a battalion chief from operations/training section. This evaluation team reviewed the proposals submitted, participated in the interview process and performed the reference checks. Purchasing and Human Resource staff provided oversight in the evaluation process.

The evaluation team determined that VDM was the highest ranked firm in the evaluation process and this firm met the minimum requirements included in the solicitation and listed below:

- Experience in conducting internal affairs investigations (i.e., allegations of employee misconduct, discrimination/harassment complaints, etc.) with local government and/or public sector within the last five (5) years.
- Assigned investigators must have experience conducting investigations in accordance with the Firefighters Procedures Bill of Rights Act (FBOR).

7. What is the background of the top three principals at VDM,; what agencies have they worked for?

Answer: Sue Ann and Deborah are the senior partners in this women-owned small business law firm, both are licensed by the California State Bar and are certified Equal Employment Opportunity Commission (“EEOC”) Investigators. Sue Ann is also a licensed private investigator, and Deborah is a Senior Professional in Human Resources (“SPHR”). Both are active in the Association of Workplace Investigators; the American Bar Association; and, the sub-committee on Workplace Investigations. Sue Ann is also a member of the Standards Technical Committee of ASIS International, charged with preparing standards and guidelines for workplace investigations.

8. What agencies did VDM work for?

Answer: Over the past five years, VDM has provided employment law services to nearly 100 public entity clients and California state agencies, including the following:¹

Orange County Fire Authority
Excerpts from May 26, 2016 Executive Committee Meeting
Internal Affairs Investigative Services

Questions & Answers

- Berryessa Union School District
- California Air Resources Board
- Calif. Community Colleges, Chancellor's Office
- California Department of Boating and Waterways
- California Department of Child Support Services
- California Department of Developmental Services
- California Department of Human Resources
- California Department of Real Estate
- California Department of Water Resources
- California Northstate University
- Calif. Office of Statewide Health Planning & Dev.*
- California State Personnel Board
- California Regional Transit*
- California State Bar
- California State Senate
- California State Treasurer's Office
- California State University, Chico
- California State University, East Bay
- California State University, Sacramento
- California State University, San Jose
- California State University, Stanislaus
- Cameron Park Community Services District
- City of Atwater
- City of Ceres
- City of Coalinga
- City of Concord
- City of Folsom
- East Bay Municipal Utility District
- Fairfield-Suisun Union School District
- Foundation for Community Colleges
- Fresno Unified School District Board of Education*
- Grass Valley School District
- Hayward Unified School District
- Hispanic Scholarship Fund
- Judicial Council of California*
- Livermore Area Recreation and Park District
- Los Rios Community College District
- Lucia Del Mar Unified School District
- Martinez Unified School District
- Marin Municipal Water District
- Napa Valley Unified School District
- Native American Health Center
- Placer Union High School District
- Planada Elementary School District
- Sacramento County Office of Education
- Sacramento Metropolitan Fire District*
- City of LathropCity of Lodi
- City of Long Beach
- City of Merced
- City of Napa
- City of Piedmont
- City of Placerville
- City of Richmond*
- City of Roseville
- City of San Jose
- City of San Rafael
- City of Santa Cruz
- City of South Lake Tahoe
- City of Wheatland
- Cordova Recreation and Parks District
- Cosumnes Community Services District
- County of Alameda*
- County of El Dorado
- County of Monterey
- County of Napa
- City of Rohnert Park
- County of Sacramento
- County of San Joaquin
- County of Stanislaus
- Cuesta Community College
- Davis Joint Unified School District
- Delhi Unified School District
- Department of Justice
- Sacramento SPCA
- San Juan Unified School District
- San Luis Obispo County Comm. College District
- Shasta Mosquito Vector Control District
- Stanislaus Union School District
- Sutter Union High School District
- The California Independent System Operator
- The Nevada Legislative Counsel
- Travis Unified School District
- University of California, including:
 - Office of the General Counsel
 - Office of the President
 - UC Berkeley
 - UC Davis*
 - UC Davis Health System
 - UC Irvine
 - UC Merced
 - UC Riverside
 - UC San Diego
 - UC San Francisco

EXCERPTS FROM MAY 26, 2016
OCFA EXECUTIVE COMMITTEE MEETING

- o UC Santa Cruz
- Vallejo City Unified School District

- Yuba Community College District

¹ The Firm has provided investigative services to a greater majority of these public entity clients. A small percentage of the public entity clients contained in this list have received either training services or advice and counsel regarding employment law matters.

* Indicates a contract between the Firm and the public entity for a term of one year or more, for investigative services.

9. How many internal affairs investigations has VDM assisted on?

Answer: Sue Ann and Deborah have each conducted over 700 workplace investigations; and, have supervised their team of seven California-licensed attorneys on several hundred more investigations. Hundreds of these investigations have involved internal affairs matters.

10. Has VDM gone to court?

Answer: Sue Ann and Deborah have experience testifying in administrative hearings and courts related to the investigations they have conducted. They have also been designated as expert witnesses to testify as to whether an investigation met industry standards. VDM understands that reports prepared as a result of an investigation may be used as evidence in legal proceedings and is prepared to participate in those processes, including testifying should a lawsuit ensue after the completion of an investigation.

11. Has VDM been sued for ineffective assistance of counsel?

Answer: No evidence of a lawsuit for ineffective assistance of counsel was found.

12. Has VDM ever been disciplined by the California State Bar?

Answer: There are no public records of discipline for the partners. VDM is in good standing in the State of California and has all necessary licenses necessary in order to perform its obligations in connection with this RFP.

13. Is VDM competent, fair, and thorough?

Answer: Through years of experience and hundreds of investigations, VDM fully understands and is capable of fulfilling the objectives outlined in the scope of work. Investigations are prompt, informed, thorough, impartial, and conducted with the utmost integrity. Only those investigators experienced with the Firefighter Bill of Rights will be assigned to OCFA investigations. VDM will provide services on an as-needed basis, assume all responsibility for the accuracy of the resulting executive summary, and offer follow-up investigations and addendums to the summary when required based on the findings. VDM attorneys pride themselves on balancing the need to be independent and unbiased while working collaboratively with clients to ensure that the investigative process is bullet-proof.

EXCERPTS FROM MAY 26, 2016
OCFA EXECUTIVE COMMITTEE MEETING

14. There is a large difference in the hourly cost between the two highest ranked firms recommended for internal affairs. Sintra Group is \$120 per hour and VDM is \$295 per hour. Can this be explained?

Answer: Details about VDM, Investigations Law Firm, were provided in previous responses. Sintra Group is a sole proprietorship, licensed private investigation firm owned by Steve Bowman. The owner is an attorney at law. The firm has no employees. All Sintra Group personnel are subcontractors consisting of honorably retired law enforcement professionals with experience in public safety and conducting investigations. Steve, the owner, is a retired Assistant Police Chief who spent twenty-eight years with the Ventura Police Department. Sintra Group has provided internal affairs services to the following clients:

Lompoc Police Dept., University of California, Santa Barbara Police Dept., Bear Valley, CSUCI Police Dept., Mammoth Lakes Police Dept., Mono County, Santa Barbara Police Dept., Santa Paula Police Dept., Southwest Community College Police Dept., and Tehachapi Police Dept. Sintra Group provides both internal affairs and background investigation services with a higher number of contracts for background investigations. Since Sintra has no employees, the operations cost is less than that of VDM, with a team of attorneys specializing in internal affairs investigations. The valuation team was aware that the hourly rate of VDM was significantly higher than Sintra Group and that was factored into the scoring. Based on the statement of qualifications, the written proposals, and the interview process, it was clearly evident that VDM partners are subject matter experts in their field.

15. Are the hourly rates provided the hourly rate for the person who will be performing the services, every day of the week, every hour of the day? Does the rate change for late night and weekend work?

Answer: Rates for both Sintra Group and VDM are charged at the fully loaded rates provided in the proposals and RFP and BAFO.

Transcription services are charged at a different rate. Sintra Group can provide transcription of audio interviews at the rate of \$35 per hour and no additional fees for the hard copies. VDM will provide transcription services at the paralegal hourly rate of \$110. Hard copies of the transcripts are billed at VDM out-of-pocket costs.

16. Was a Reimbursable Expense policy or language regarding this included in the RFP?

Answer: The pricing page included in the RFP requested a fully loaded fixed hourly rate including out-of-pocket expenses for all costs associated for internal affairs investigation services.

17. Will the firms be charging OCFA for travel?

EXCERPTS FROM MAY 26, 2016
OCFA EXECUTIVE COMMITTEE MEETING

Answer: Sintra Group has stated that the \$120 per hour is inclusive and includes all travel related expenses.

VDM has stated that the \$295 hourly rate is fully loaded and all-inclusive. Travel time will be billed at the hourly rate. Staff negotiated a round trip flat rate of five hours to perform investigative services for OCFA. In addition, where feasible, travel expenses to OCFA may be shared with other agencies, if VDM is able to “stack” multiple meetings.

VDM is looking to establish a location in Southern California in 2017 or 2018.

18. Is there a multiplier on the reimbursable expenses?

Answer: There is no multiplier on the reimbursable expenses and the only one reimbursable expense identified for VDM is hard copy transcripts which will be billed at their out-of-pocket expense.

19. Is there a limit to the number of investigators assigned to the internal affairs cases?

Answer: Sintra Group has indicated that they typically try to use only one investigator for most witness interviews. They prefer to use two investigators for the initial interview with the complainant and for the interview with the involved personnel and their representatives. These conversations are more involved and it is too easy for a single investigator in these interview to be distracted from the facts of the case; having two investigators helps keep them focused on the issues and ensures all pertinent areas are explored.

VDM has stated that one attorney is typically assigned to a case. One person, the assigned attorney, will travel to OCFA to conduct an investigation.

See additional information provided in the attached letters received from each of the firms.

June 8, 2016

TO: JAMES AGUILA, ORANGE COUNTY FIRE AUTHORITY
FROM: STEVE BOWMAN, SINTRA GROUP
RE: ADDITIONAL QUESTIONS

Here are my responses to your issues:

1. Does the hourly rate of \$120 include all of the reports and materials to be provided to OCFA upon completion of an investigation?
 - a. **Yes, that rate would include report preparation time. Any costs for additional materials or services would be at the specific costs or these, with no markup or additional fees.**
2. During the course of an investigation are there any reimbursable expenses/services that are passed on to OCFA outside of the fixed hourly rate? If so, how are those costs calculated, is there a multiplier on these reimbursable expenses?
 - a. **We have provided verbatim transcripts of interviews on Internal Affairs investigations. Usually, these are only of the complainant and the involved personnel; however, if the Department requests additional transcripts, e.g. witnesses or other involved parties, we can have these done as well. Our hourly rate for transcriptions is \$35 per hour, with no minimum cost or multiplier.**
3. Regarding the \$120 hourly rate, does the rate remain the same during both "business hours" and after hours/weekends?
 - a. **There is no additional cost for "after hours" or "weekends"; we realize that the investigations must be done within a short timeframe and we have no set work-week or shift schedule.**
4. How many investigators are typically assigned to an internal affairs case? How many would travel to OCFA to conduct an investigation?
 - a. **We try to use only one investigator for most witness interviews. We prefer to use two investigators for the initial interview with the complainant and for the interview with the involved personnel and their representatives. These conversations are more involved and it's too easy for a single investigator in these interviews to be distracted from the facts of the case by attorney arguments or union issues; having two investigators helps keep us focused on the issues and insure all pertinent areas are explored. We also try to have a female investigator present during the complainant interviews, of if there are allegations are of sexual misconduct, if the complainant or involved personnel are female to insure an atmosphere of openness, fairness and objectivity.**

5. Two of the references included in your proposal show internal affairs investigations were completed for UC Santa Barbara PD and Lompoc PD. What were the approximate costs to complete each investigation? Approximately how much of the costs were for travel expenses?
 - a. **We try to consolidate our interviews so as to minimize travel time, because we emphasize efficiency over maximizing billable hours. Each of these cases are different, so it's hard to determine a ratio or percentage of time spent traveling. For our last few I.A. investigations for these agencies we had a relatively small number of witnesses; we've typically done the initial interview with the complainant on one trip, interviews with witnesses on a second trip and the interview with the involved officer and his/her representative on a subsequent trip. It's important to identify the pertinent issues following the initial interview and prepare questions for the witnesses; likewise, it's important to prepare for the involved personnel/representative interview to minimize the time and maximize the information gathering during this meeting. Thus, multiple trips are important but still should be minimized. For UCSB specifically, there have been occasions when more trips were necessary do to meetings with University personnel outside the police department. These extra meetings were not our preference but done at the request of, and for the convenience of, the University.**
 - b. **There is no "typical" I.A. investigation; the facts are different on each one, meaning there are different numbers of witnesses to contact and different types and depths of information to be determined in each case. I would estimate that approximately ten to fifteen percent of the total hourly cost of the investigations at these agencies would involve travel costs.**
 - i. **Our investigations at Lompoc PD have ranged from a total cost of \$1,600 to \$24,000; the majority of those involved sworn Peace Officers accused of misconduct were in the range of \$8,000-\$12,000. The most expensive case involved the subsequent termination of a long-term sergeant.**
 - ii. **Our investigations for UCSBPD have ranged from a total cost of \$2,000 to \$20,000; nearly all of these have involved sworn Peace Officers accused of misconduct. The most expensive case involved the termination of a thirty-year captain.**



VAN DERMYDEN MADDUX
Investigations Law Firm

June 7, 2016

VIA ELECTRONIC MAIL: jamesaguila@ocfa.org

James Aguila
Assistant Purchasing Agent
Orange County Fire Authority, Purchasing
1 Fire Authority Road
Irvine, CA 92602

Re: OCFA Internal Affairs Contract - Additional Questions

Dear Mr. Aguila:

Please see below our answers to each additional question posed by the Orange County Fire Authority's Executive Committee:

- 1. Does the hourly rate of \$295 include all of the reports and materials to be provided to OCFA upon completion of an investigation?**

Yes, this rate includes all reports and materials provided upon completion of an investigation.

- 2. During the course of an investigation are there any reimbursable expenses/services that are passed on to OCFA outside of the fixed hourly rate? If so, how are those costs calculated, is there a multiplier on these reimbursable expenses?**

There are no reimbursable expenses/services passed on to OCFA outside of the fixed hourly rate.

- 3. Regarding the \$295 hourly rate, does the rate remain the same during both "business hours" and after hours/weekends?**

Yes, the rate remains the same during both "business hours" and after hours/weekends.

- 4. How many attorneys are typically assigned to a case? How many would travel to OCFA to conduct an investigation?**

One attorney is typically assigned to a case. One person, the assigned attorney, will travel to OCFA to conduct an investigation.

- 5. All of the six references included in your proposal indicate that a typical internal affairs investigation runs from \$15,000 - \$18,000 plus costs. What is included in the additional “costs” for each investigation?**

This is what we typically charge; however, we have agreed to a fully loaded rate for OCFA, so we modified our response to remove “plus costs” for this proposal.

- 6. Since all of the agencies included in the list of references were located in Northern California, what might the average investigation cost be for OCFA, taking into consideration the agreed to limit of five hours for travel expenses.**

While it is difficult to estimate fees without knowledge of a particular case – including the nature and complexity of the allegation; the number of witnesses, respondents and complainants; the amount of documentation; and, other factors – a typical investigation runs from \$15,000-18,000, which we anticipate will incorporate the five hours of travel.

We appreciate your checking with us concerning the need for confidentiality. Van Dermyden Maddux does not request that any information found in our proposal be kept confidential.

Very truly yours,



Sue Ann Van Dermyden

ORANGE COUNTY FIRE AUTHORITY
JA2059 – Investigative Services
Summary of Proposals and Evaluation Results for
Internal Affairs Investigative Services

Eleven proposals were received and evaluated for Internal Affairs Investigative Services. After the initial proposal evaluations were completed, the top four vendors were invited to participate in interviews for Internal Affairs Investigative Services. The seven vendors who were not invited to participate in interviews are listed below, and the four vendors that were invited for interviews are shown on the next page.

Vendor	BA Investigations			Norman A. Traub Associates			Morris PI Group		
Total Estimated Annual Cost	\$32,500.00			\$37,500.00			\$22,500.00		
Hourly Rate	\$130.00			\$150.00			\$90.00		
Evaluator #	1	2	3	1	2	3	1	2	3
A. Statement of Qualifications (Max 40)	11	12	15	19	12	15	19	17	15
B. Written Technical Approach (Max 30)	6	13	12	14	10	15	12	10	15
C. Proposed Costs (Max 30)	12	12	12	10	10	10	17	17	17
Sum of Proposal Scores	29	37	39	43	32	40	48	44	47
Proposal Rankings	11	10	11	10	11	10	9	8	9
Total Sum of Ranking	32			31			26		

Vendor	Internal Affairs Connections			Hall Investigations			Wildan Homeland Solutions		
Total Estimated Annual Cost	\$25,000.00			\$20,000.00			\$28,750.00		
Hourly Rate	\$100.00			\$80.00			\$115.00		
Evaluator #	1	2	3	1	2	3	1	2	3
A. Statement of Qualifications (Max 40)	26	17	20	18	17	15	28	20	25
B. Written Technical Approach (Max 30)	9	15	15	14	17	15	17	15	15
C. Proposed Costs (Max 30)	15	15	15	19	19	19	13	13	13
Sum of Proposal Scores	50	47	50	51	53	49	58	48	53
Proposal Rankings	8	7	7	7	4	8	6	6	6
Total Sum of Ranking	22			19			18		

Vendor	Yarbrough Veritas		
Total Estimated Annual Cost	\$12,500.00		
Hourly Rate	\$50.00		
Evaluator #	1	2	3
A. Statement of Qualifications (Max 40)	15	7	15
B. Written Technical Approach (Max 30)	15	5	15
C. Proposed Costs (Max 30)	30	30	30
Sum of Proposal Scores	60	42	60
Proposal Rankings	4	9	4
Total Sum of Ranking	17		

ORANGE COUNTY FIRE AUTHORITY
JA2059 – Investigative Services
Summary of Proposals and Evaluation Results for
Internal Affairs Investigative Services

After the initial proposal evaluations were completed, the top four vendors were invited to participate in interviews for Internal Affairs Investigative Services. The following scores reflect the final scoring after interviews.

Vendor	RCS Investigations			Summit Security Services		
Total Estimated Annual Cost	\$30,000.00			\$23,750.00		
Hourly Rate	\$120.00			\$95.00		
Evaluator #	1	2	3	1	2	3
A. Statement of Qualifications (Max 40)	34	27	30	40	40	40
B. Written Technical Approach (Max 30)	12	10	15	30	30	30
C. Proposed Costs (Max 30)	13	13	13	16	16	16
D. Interview (Max 30)	15	15	15	10	10	10
Sum of Proposal Scores	74	65	73	96	96	96
Proposal Rankings	4	4	4	3	3	3
Total Sum of Ranking	12			9		

Best and Final Offers were requested from Van Dermynen Maddux and Sintra. The highest ranking firms after interviews.

Vendor	Van Dermynen Maddux			Sintra Group		
Total Estimated Annual Cost	\$73,750.00			\$30,000.00		
Hourly Rate	\$295.00			\$120.00		
Evaluator #	1	2	3	1	2	3
A. Statement of Qualifications (Max 40)	40	35	40	40	40	40
B. Written Technical Approach (Max 30)	28	30	30	27	30	30
C. Proposed Costs (Max 30)	5	5	5	13	13	13
D. Interview (Max 30)	30	30	30	25	25	27
Sum of Proposal Scores	103	100	105	105	108	110
Proposal Rankings	2	2	2	1	1	1
Total Sum of Ranking	6			3		



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
July 5, 2016

Agenda Item No. 4C
Discussion Calendar

**Policy for Investigating Complaints, Allegations, and
Observations of Employee Misconduct**

Contact(s) for Further Information

Brian Young, Interim Director brianyoung@ocfa.org 714.573.6014
Human Resources Department

Brigette Gibb, Employee Relations Mgr. bridgettegibb@ocfa.org 714.573.6353
Human Resources Department

Summary

This agenda item is submitted to the Human Resources Committee for informational purposes and to provide context on the factors Human Resources staff considers when making a determination to retain an external (versus internal) investigator to investigate employee misconduct.

Prior Board/Committee Action(s)

On May 26, 2016, the Executive Committee considered a staff recommendation to award two contracts with external investigation firms to provide administrative investigation services. The Executive Committee requested that the item be brought back to the Committee in July, along with more information about the two recommended firms and an investigations policy which, among other things, identifies under what circumstances Human Resources would retain an external investigator.

RECOMMENDATED ACTION(S)

Review the investigations policy and direct staff to place the item on the agenda for the Executive Committee meeting of July 28, 2016, with the Human Resources Committee's recommendation to receive and file.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

The Orange County Fire Authority (OCFA) takes all complaints of employee misconduct seriously. Complaints of harassment and discrimination based on protected classes must be investigated pursuant to the California Fair Employment and Housing Act and Title VII of the Civil Rights Act. Currently, the Human Resources Department has responsibility for ensuring misconduct is investigated. The Policy for Investigating Complaints, Allegations, and Observations of Employee Misconduct formalizes and standardizes current practices as well as

incorporates the role of the emerging Professional Standards Unit (PSU). Upon establishment, the PSU will have the ultimate responsibility for investigating complaints which, based on allegations, would constitute serious employee misconduct (e.g. threats of or actual violence, insubordination, dishonesty, theft, coming to work under the influence of controlled substances or alcohol), or a serious violation of an OCFA Standard Operating Procedure (S.O.P.), General Order (G.O.), or state or federal law. Once a complaint is brought to the level of the PSU, and **depending on the nature of the issues raised and the individuals involved**, the PSU may either conduct an investigation internally or delegate their authority to investigate to other appropriately trained management employees, General Counsel, or an investigator pre-selected from a panel of outside firms or companies.

The Policy is not intended to cover general performance issues observed by Captains/Supervisors, Battalion Chiefs/Managers, and other management and executive management staff in the normal course of business other than when such problems are persistent or of such a severe nature that the first line supervisor requests PSU involvement. Since it is management's obligation to conduct investigations and ensure compliance with all legal requirements when doing so and since the manner in which such matters are investigated do not impact terms and conditions of employment, the policy is not subject to the meet and confer process with the employee associations. However, in the interest of labor relations, the policy has been provided to the associations for their input.

Attachment(s)

1. Policy for Investigating Complaints, Allegations, and Observations of Employee Misconduct Investigations
2. Issue Flow Chart (Sworn/Safety)
3. Issue Flow Chart (Non-Safety)
4. Probationary Employee Example
5. Level 1 Investigation Example
6. Level 2 Investigation Example
7. Level 3 Investigation Example

Orange County Fire Authority Professional Standards Unit
Policy for Investigating Complaints, Allegations, and Observations of Employee
Misconduct

The Orange County Fire Authority (OCFA) takes all complaints of employee misconduct seriously. The Professional Standards Unit (PSU) will have the ultimate responsibility for investigating complaints which, based on allegations, would constitute serious employee misconduct, such as: threats of or actual violence, insubordination, dishonesty, theft, coming to work under the influence of controlled substances or alcohol, or a serious violation of an OCFA Standard Operating Procedure (S.O.P.), General Order (G.O.), or state or federal law. Once a complaint is brought to the level of the PSU, and depending on the nature of the issues raised and the individuals involved, the PSU may either conduct an investigation internally or delegate their authority to investigate to other appropriately trained management employees, General Counsel, or an investigator pre-selected from a panel of outside firms or companies. This policy is not intended to cover general performance issues observed by Captains/Supervisors, Battalion Chiefs/Managers, and other management and executive management staff in the normal course of business other than when such problems are persistent or of such a severe nature that the first line supervisor requests PSU involvement.

I. Initiating a Complaint

Complaints can be filed by contacting the Employee Relations Manager or any supervisor within the chain of command who will then forward the complaint to his or her supervisor and Human Resources (HR). Complaints may also be brought directly to the attention of the HR Director or Fire Chief. When an employee is raising an issue that he or she believes should be investigated, the complaint shall be submitted on a Complaint Form to the HR Manager unless the complaint is against the HR Manager, in which case, it will be submitted to the HR Director or the Fire Chief. Complaints against the HR Director may be brought to the Fire Chief. Complaints against the Fire Chief may be filed with either the HR Director, the OCFA Board Chair or Vice Chair or the HR Committee Chair and will be processed in accordance with Board Policy.

Whenever possible, complaints should be submitted as soon as possible, but no later than 90 days from the event which triggered the complaint. Before filing a complaint with HR, employees are encouraged to attempt to resolve the issue with the individual directly. If that is not feasible, it is important to include names of possible witnesses and any documentation which supports the allegations in the complaint. OCFA will make every effort to ensure that the investigation process is conducted in the most confidential manner possible and expects that employees bringing complaints, as well as all others involved in the investigation process, do the same.

II. Responsibility to Inform Human Resources Director

If any HR professional or any supervisor (or above) level employee becomes aware of

information (either through a complaint or from direct observation) that would lead a reasonable person to believe that serious employee misconduct as defined above has occurred, he or she will inform the HR Director within five days of learning of the information. Corrective action may be taken against anyone with a duty to act who fails to do so.

III. Determining Whether to Investigate

The HR Director, in conjunction with staff from the PSU, will decide whether an investigation is necessary based upon the allegations and, if so, whether to use internal staff, General Counsel, or an outside qualified investigator selected from OCFA's investigation panel. The HR Director will order an investigation when the allegations include an allegation of policy violation (e.g. S.O.P. or G.O. or other).

IV. Determining Level of Investigation

If it is concluded that a formal investigation is necessary to determine: (1) whether the allegations made have occurred; (2) whether the facts which, if found to be true, constitute a violation of policy; and/or (3) whether a concern is more prevalent than alleged, meaning it may be impacting more than just the complaining party, the HR Director and PSU shall (in consultation with General Counsel, if necessary) determine who should conduct the investigation.

If the matter involves an allegation of a violation of OCFA policy which, if true, would not also constitute a violation of law, and the individuals accused of misconduct hold the rank of Battalion Chief or below or Manager or below, the investigation will be conducted by OCFA staff (either by or in collaboration with HR staff) or General Counsel. If the matter involves an employee holding the rank of Division Chief or higher or Director or higher and /or if the allegations involve matters which, if found to be true, could also constitute a violation of law, General Counsel or an outside attorney investigator will conduct the investigation. An outside investigator shall be used if the matter involves a complaint covered by this Policy against a Human Resources professional, any executive management employee, a Board member, or General Counsel, unless time is of the essence and an investigation must be commenced prior to the availability of any outside investigator.

V. Investigator Duties

A. Investigations will be a collaborative effort between the department in which the involved employees work, the Human Resources Department, and the PSU. The complainant will be informed of the investigation and its progress on a timely basis.

B. With the exception of preliminary fact-finding used to determine what happened in a given situation, when no specific employee is suspected of wrongdoing or the employee's conduct, even if found to be true, would not result in more than a verbal counseling, all investigations of firefighter employees will be conducted in conformance with the rights set forth in the Firefighters' Procedural Bill of Rights Act.

C. The investigator will address the following with the complainant and accused, whenever applicable and feasible:

1. The nature of the investigation and these investigation guidelines

2. For claims of harassment and discrimination based on a protected class (gender, race, disability, religion, etc.) and retaliation for complaining about such conduct, OCFA is under a legal obligation to investigate and address such concerns. As such, OCFA will conduct an investigation into the allegations even in cases when the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary

3. The importance of confidentiality during the investigation. To the extent possible, OCFA will make every reasonable effort to conduct all proceedings in a manner that will protect the confidentiality of all parties. Parties to the complaint must treat the matter under investigation with discretion and respect for the reputation of all parties involved

4. California Public Records Act. Upon conclusion of the investigation, if the investigation is not conducted by an attorney, records may be made available to the extent mandated by law

5. The investigator, in collaboration with the complainant's Department and HR staff, will determine if action is necessary to ensure that no discrimination/harassment occurs against the complainant while the investigation is pending and after it is concluded

VI. Investigation Process

A. Purpose of the investigation. The purpose of any investigation is to evaluate the allegations (from a factual, legal, and policy standpoint), formulate a response that addresses the facts as they are determined, and follow up to ensure that the necessary action steps are completed.

B. Method of Investigation. Depending on the facts of the case, an investigation may range along a continuum from a one-on-one conversation with the accused with an agreement as to further interactions, to an inquiry with multiple witness interviews. During the investigation, the investigator may interview the parties and witnesses who have first-hand knowledge of the events and gather relevant documents. Unless specified otherwise, all interviews will be audio recorded. After analyzing all the information, the investigator will, in most cases, prepare a report with factual findings. Based on the factual findings, HR, in collaboration with the appropriate department staff and General Counsel (when deemed necessary), will determine appropriate steps to be implemented. The complainant and the accused will be provided with a notice of the ultimate conclusion of the investigation. Only if discipline is proposed against an employee (and the employee is not at-will) will the relevant portions of the investigation report be provided to that employee.

C. Representatives.

1. An individual of the accused's choice may represent him or her at the investigative interview (interrogation) and any subsequent interviews or meetings. Individuals who are not accused of wrongdoing are not entitled to a representative, but on a case by case basis depending on the circumstances of the situation, OCFA may allow a representative to attend. The representative may not be someone who is a witness, complaining party, or

subject of the investigation.

2. **Role of Representative.** The role of the union representative is critical to the interview process. An investigatory interview is not an adversarial process or court room procedure; therefore, objections to questions, as those made in a court room or in a deposition, will not be permitted. Management's goal, when conducting an interview, is to obtain information relevant to the issue being investigated and to obtain the correct result. Management's goal is not to be intentionally confusing or misleading. Accordingly, union representatives may clarify a question which may be vague or confusing by clarifying the issue or asking the interviewer to clarify the question. In addition, the representative may ask questions which may lead to the discovery of additional information. While a union representative may make a general statement which may help guide the interview at the outset or the conclusion of the interview, the representative cannot answer questions on behalf of the employee. The union representative may not interfere with the interview. If a representative continues to try to interject responses on behalf of the employee or to coach the employee through repeated legal objections, the interview may be stopped and the employee will be given a choice whether to proceed without a union representative or a different representative.

D. Possible outcomes. An investigation may result in one of the following findings:

1. A determination that there is sufficient evidence to indicate the occurrence of serious misconduct, as defined in this Policy. The allegation will be "sustained."

2. A determination that there is insufficient or no evidence to show that the employee engaged in serious misconduct as defined in this Policy. The allegation will be "unsustained."

3. A determination that inappropriate behavior has occurred. The allegation will be "founded."

4. A determination that there is sufficient evidence to indicate that an allegation is untrue (false) or not supported by any facts. The allegation will be "unfounded."

The difference between a determination of "sustained" and "founded" is that "founded" is more absolute. For example, when an accused employee admits to an allegation of misconduct and the evidence supports the admission, the investigation finding would be "founded," indicating the misconduct did occur. A video recording of the misconduct occurring may also result in an investigative finding of "founded." The difference between "unsustained" and "unfounded" is that "unfounded" is more absolute. For example, when an employee accused of theft while responding on an emergency call wasn't even on duty or present at the call, the investigative finding would likely be "unfounded," indicating that the misconduct (by this employee) did not occur.

If discrimination, harassment, retaliation, false allegation, serious employee misconduct (as defined within this Policy), or other policy violation occurred, OCFA will take necessary action to correct the behavior. A false charge occurs when someone intentionally reports information or incidents that they know to be untrue and the evidence demonstrates that the employee has engaged in such action. Knowingly filing a false report may lead to termination of employment.

OCFA must take prompt remedial action consistent with the severity of the offense, if any, and all applicable OCFA rules and regulations. The necessary action will be evaluated based on all of the circumstances taking into account discipline issued to others for similar offenses and will be evaluated by the department in conjunction with HR, the PSU and General Counsel (when deemed necessary).

VII. Confidentiality

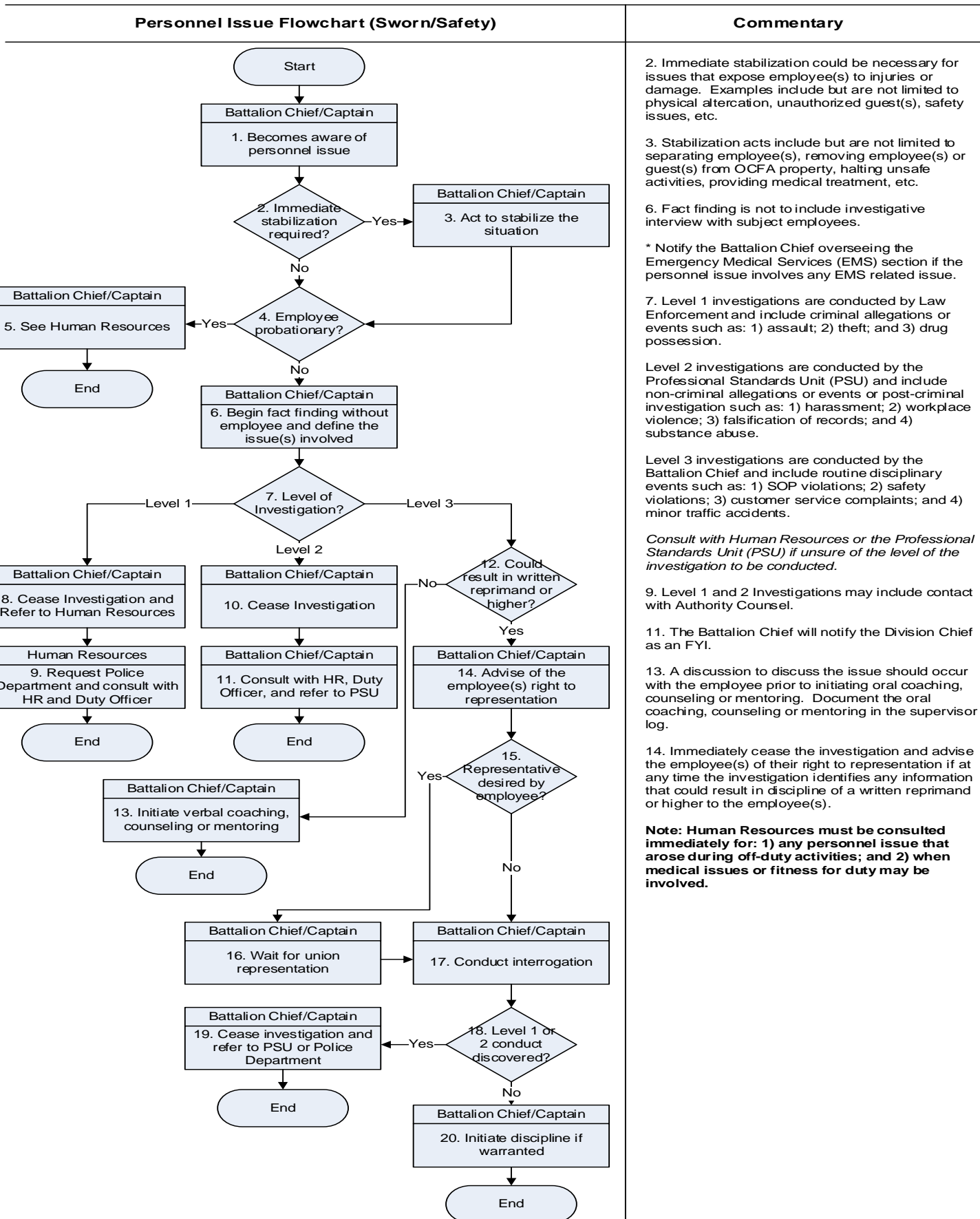
To the extent possible, all information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except to the extent it is necessary to disclose particulars in the course of the investigation or when compelled to do so by law. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process.

VIII. Retaliation

OCFA will not tolerate retaliation in any form against any employee, independent contractor, or volunteer who brings a complaint, serves as a witness, assists a complainant, or participates in an investigation of discrimination or harassment based on a protected class. Retaliation can consist of any adverse action or treatment when directed at someone without a legitimate reason and solely because that individual brought or participated in a complaint. However, simply because an employee has brought or has participated in a complaint does not mean that that employee is shielded from any adverse treatment when there is no causal nexus between the complaint and the negative action or treatment.

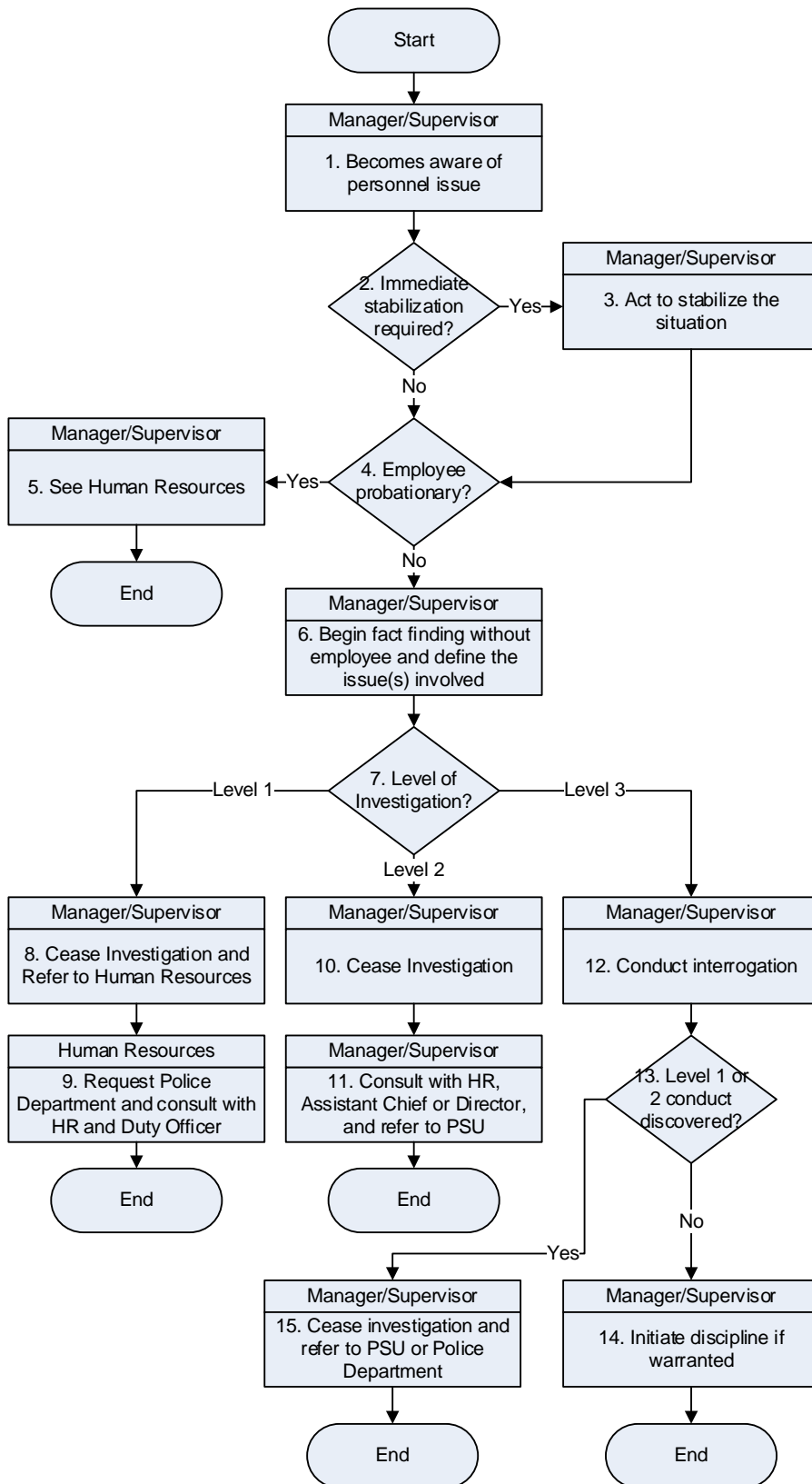
IX. Recordkeeping

Investigation reports, all interviews, attachments and notices informing employees of the outcome of the investigation, all of which do not result in discipline against an employee will not be placed in any employee's personnel file. If discipline is imposed, the relevant portions of the report will be included with the disciplinary notices which, in turn, will be placed in the personnel file. The report and all related documentation will instead be kept in the employee relations files within the HR Department. Investigation records will be kept in accordance with OCFA's record retention schedules. Such documents may be provided to outside agencies such as the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission if a complaint is filed and a response by OCFA is required.



Personnel Issue Flowchart (Non-Safety)

Commentary



2. Immediate stabilization could be necessary for issues that expose employee(s) to injuries or damage. Examples include but are not limited to physical altercation, unauthorized guest(s), safety issues, etc.

3. Stabilization acts include but are not limited to separating employee(s), removing employee(s) or guest(s) from OCFA property, halting unsafe activities, providing medical treatment, etc.

6. Fact finding is not to include investigative interview with subject employees (interrogation).

7. Level 1 investigations are conducted by Law Enforcement and include criminal allegations or events such as: 1) assault; 2) theft; and 3) drug possession.

Level 2 investigations are conducted by the Professional Standards Unit (PSU) and include non-criminal allegations or events or post-criminal investigation such as: 1) harassment; 2) workplace violence; 3) falsification of records; and 4) substance abuse.

Level 3 investigations are conducted by the Manager and include routine disciplinary events such as: 1) SOP violations; 2) safety violations; 3) customer service complaints; and 4) minor traffic accidents.

Consult with Human Resources or the Professional Standards Unit (PSU) if unsure of the level of the investigation to be conducted.

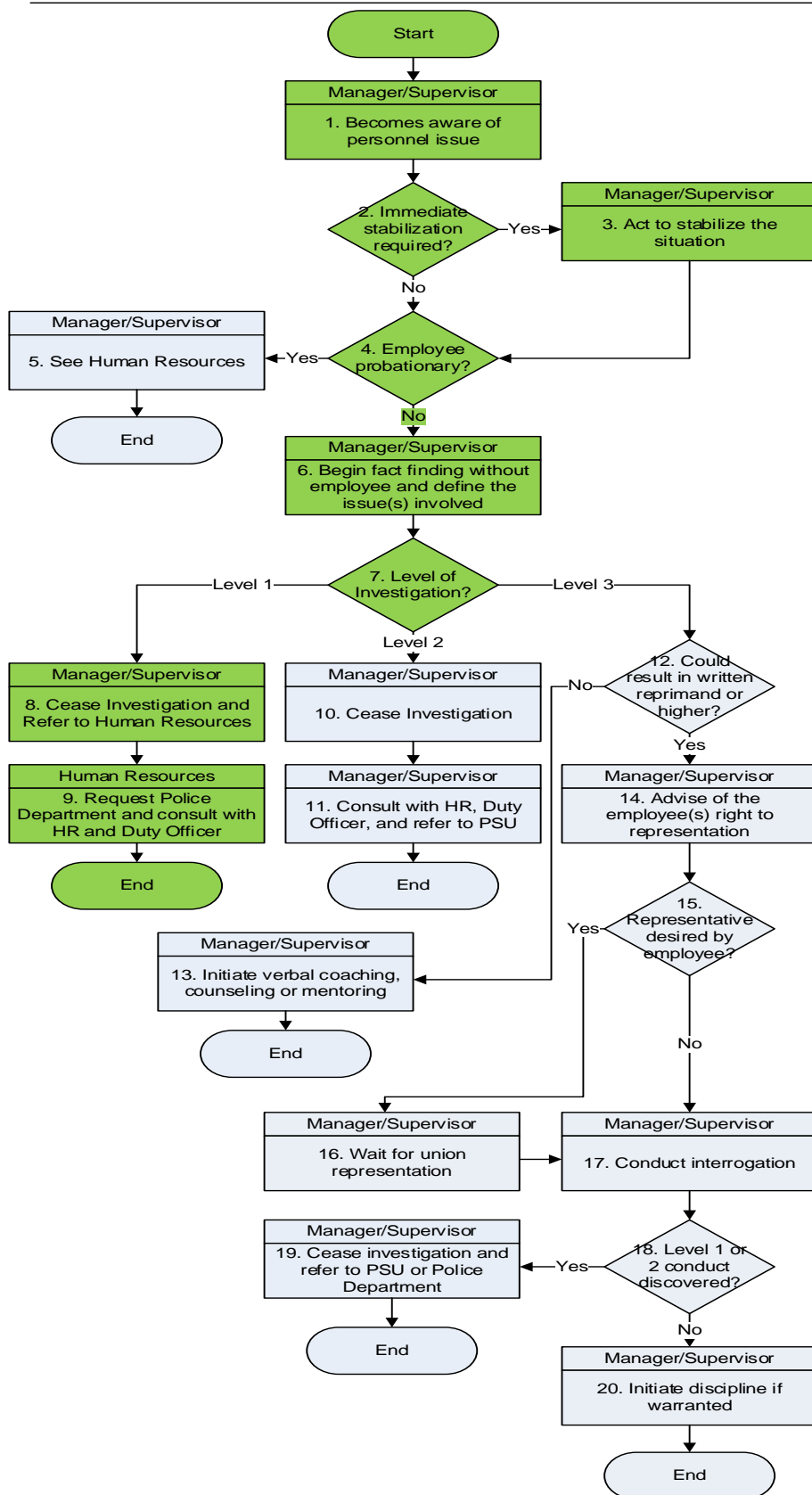
9. Level 1 and 2 Investigations may include contact with Authority Counsel.

Note: Human Resources must be consulted immediately for: 1) any personnel issue that arose during off-duty activities; and 2) when medical issues or fitness for duty may be involved.

Personnel Issue Flowchart Example – Probationary Investigation	Commentary
<pre> graph TD Start([Start]) --> BC1[Battalion Chief/Captain 1. Becomes aware of personnel issue] BC1 --> D2{2. Immediate stabilization required?} D2 -- Yes --> BC3[Battalion Chief/Captain 3. Act to stabilize the situation] D2 -- No --> D4{4. Employee probationary?} D4 -- Yes --> BC5[Battalion Chief/Captain 5. See Human Resources] BC5 --> End1([End]) D4 -- No --> BC6[Battalion Chief/Captain 6. Begin fact finding without employee and define the issue(s) involved] BC6 --> D7{7. Level of Investigation?} D7 -- Level 1 --> BC8[Battalion Chief/Captain 8. Cease Investigation and Refer to Human Resources] BC8 --> HR9[Human Resources 9. Request Police Department and consult with HR and Duty Officer] HR9 --> End2([End]) D7 -- Level 2 --> BC10[Battalion Chief/Captain 10. Cease Investigation] BC10 --> BC11[Battalion Chief/Captain 11. Consult with HR, Duty Officer, and refer to PSU] BC11 --> End3([End]) D7 -- Level 3 --> D12{12. Could result in written reprimand or higher?} D12 -- No --> BC13[Battalion Chief/Captain 13. Initiate verbal coaching, counseling or mentoring] BC13 --> End4([End]) D12 -- Yes --> BC14[Battalion Chief/Captain 14. Advise of the employee(s) right to representation] BC14 --> D15{15. Representative desired by employee?} D15 -- Yes --> BC16[Battalion Chief/Captain 16. Wait for union representation] BC16 --> BC17[Battalion Chief/Captain 17. Conduct interrogation] BC17 --> D18{18. Level 1 or 2 conduct discovered?} D18 -- Yes --> BC19[Battalion Chief/Captain 19. Cease investigation and refer to PSU or Police Department] BC19 --> End5([End]) D18 -- No --> BC20[Battalion Chief/Captain 20. Initiate discipline if warranted] BC20 --> End6([End]) </pre>	<p>Scenario:</p> <p>Probationary Firefighter observed by Captain removing self-contained breathing apparatus (SCBA) in an Immediately Dangerous to Life or Health (IDLH) area of a structure fire prior to atmospheric monitoring.</p> <ol style="list-style-type: none"> 1. Fire Captain becomes aware of issue. 2. Immediate stabilization is required due to unsafe condition. 3. Fire Captain and Safety Officer direct Probationary Firefighter to wear SCBA until atmospheric monitoring is conducted and personnel are notified it is safe to downgrade respiratory protection. 4. Employee is probationary. 5. Fire Captain notifies Human Resources to discuss appropriate actions with probationary employee. 7. Level 1 investigations are conducted by Law Enforcement and include criminal allegations or events such as: 1) assault; 2) theft; and 3) drug possession. <p>Level 2 investigations are conducted by the Professional Standards Unit (PSU) and include non-criminal allegations or events or post-criminal investigation such as: 1) harassment; 2) workplace violence; 3) falsification of records; and 4) substance abuse.</p> <p>Level 3 investigations are conducted by the Battalion Chief and include routine disciplinary events such as: 1) SOP violations; 2) safety violations; 3) customer service complaints; and 4) minor traffic accidents.</p> <p><i>Consult with Human Resources or the Professional Standards Unit (PSU) if unsure of the level of the investigation to be conducted..</i></p>

Personnel Issue Flowchart Example – Level 1 Investigation

Commentary



Scenario:

Orange County Sheriff informs OCFA that one of our employees has been arrested in conjunction with a hit and run accident. Manager/Supervisor is informed.

1. Supervisor becomes aware of issue.

3. Immediate stabilization required which may include staff coverage and how time will be recorded if employee is incarcerated and will miss work.

6. Begin fact finding including obtaining the police report, if possible.

7. Level of investigation is level 1.

Level 1 investigations are conducted by Law Enforcement and include criminal allegations or events such as: 1) assault; 2) theft; and 3) drug possession.

Level 2 investigations are conducted by the Professional Standards Unit (PSU) and include non-criminal allegations or events or post-criminal investigation such as: 1) harassment; 2) workplace violence; 3) falsification of records; and 4) substance abuse.

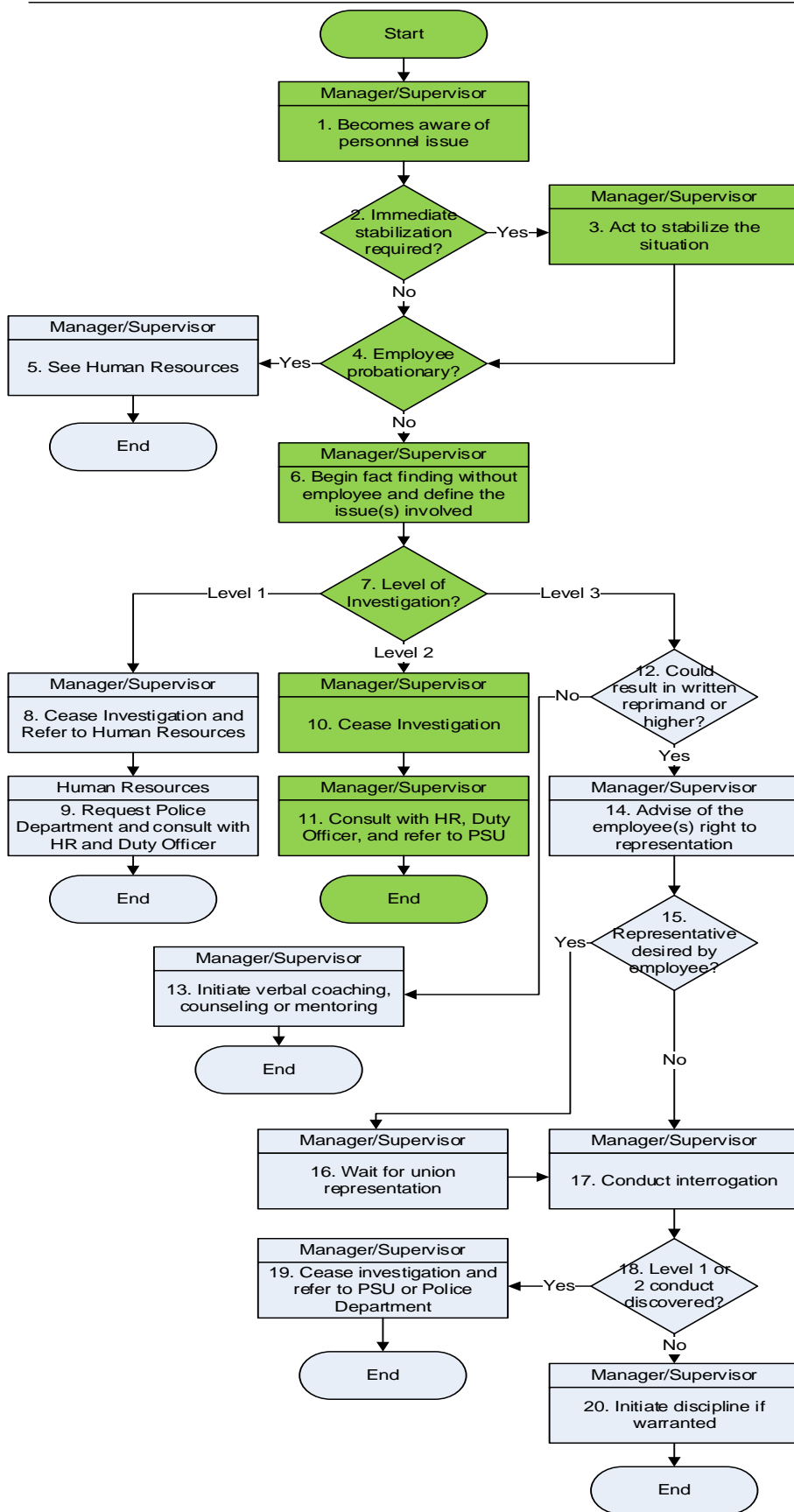
Level 3 investigations are conducted by the Manager and include routine disciplinary events such as: 1) SOP violations; 2) safety violations; 3) customer service complaints; and 4) minor traffic accidents.

Consult with Human Resources or the Professional Standards Unit (PSU) if unsure of the level of the investigation to be conducted..

9. Cease investigation and consult with Human Resources.

Personnel Issue Flowchart Example – Level 2 Investigation

Commentary



Scenario:

Two employees are involved in a heated argument that gets physical. One employee strikes the other. The supervisor was in the kitchen at the time of the incident and hears the exchange between the two employees.

1. Supervisor becomes aware of the issue.
2. Immediate stabilization is required.
3. The altercation has stopped, employees are separated, is medical care required, is law enforcement required.
4. Employees involved are not probationary.
6. Begin fact finding without employees and define the issue. For example, speak with potential witnesses, review personnel files for prior discipline, comments in ROPs, and obtain police report if allegations of assault are made.
7. Level of investigation is Level 2 assuming there are no criminal allegations.

Level 1 investigations are conducted by Law Enforcement and include criminal allegations or events such as: 1) assault; 2) theft; and 3) drug possession.

Level 2 investigations are conducted by the Professional Standards Unit (PSU) and include non-criminal allegations or events or post-criminal investigation such as: 1) harassment; 2) workplace violence; 3) falsification of records; and 4) substance abuse.

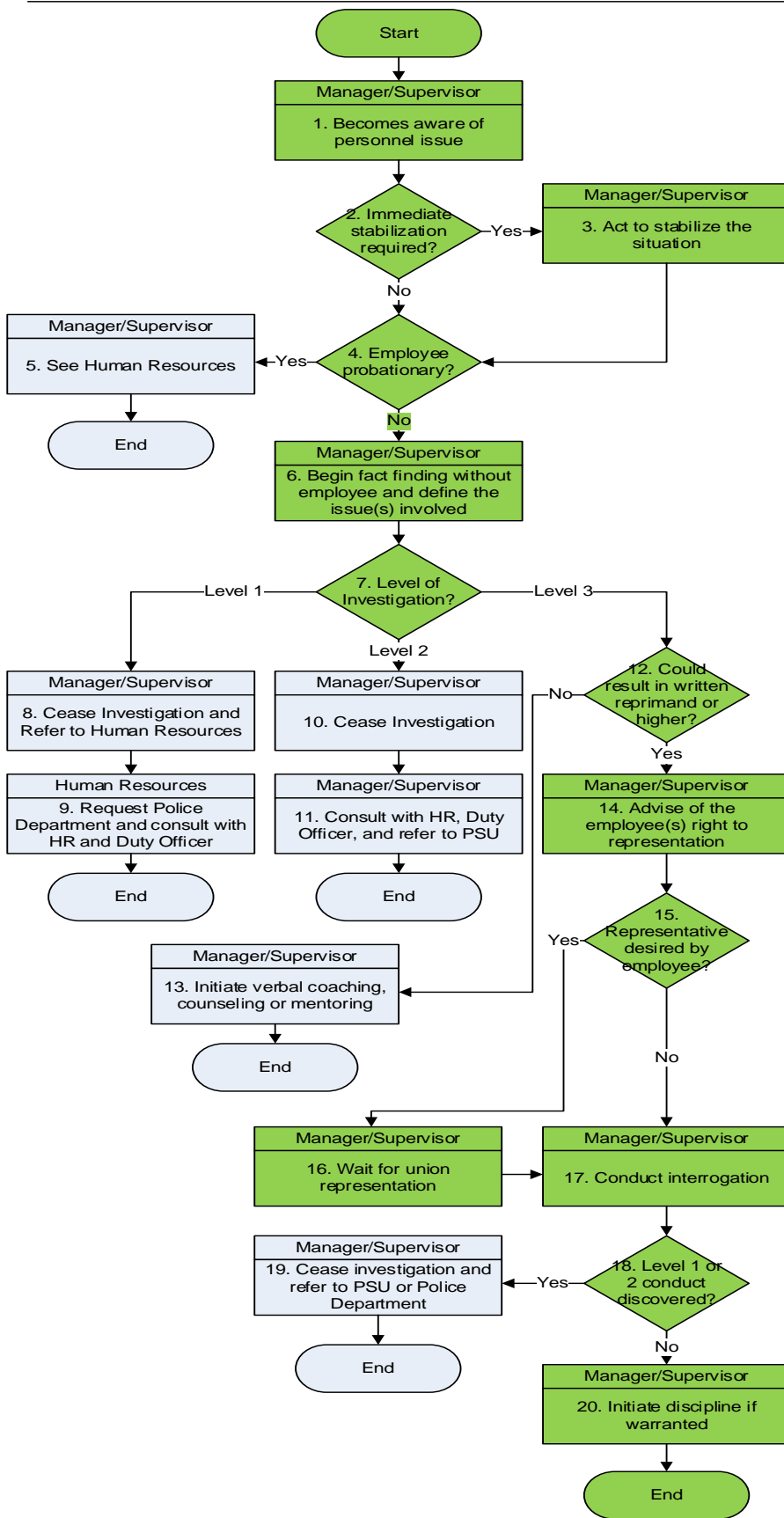
Level 3 investigations are conducted by the Manager and include routine disciplinary events such as: 1) SOP violations; 2) safety violations; 3) customer service complaints; and 4) minor traffic accidents.

Consult with Human Resources or the Professional Standards Unit (PSU) if unsure of the level of the investigation to be conducted..

10. Manager and/or supervisor cease investigation.
11. Manager and/or supervisor contact Duty Officer and Human Resources to discuss possible referral to Professional Standards Unit.

Personnel Issue Flowchart Example – Level 3 Investigation

Commentary



Scenario:

Employee is involved in a vehicle accident. Supervisor was in the vehicle at the time of the accident and believes the employee was driving recklessly (excessive speed).

1. Supervisor becomes aware of issue.
2. Immediate stabilization required due to damaged engine.
3. Vehicle taken out of service to have it replaced/ repaired.
6. Begin fact finding without employee and define the issue. For example: review accident history, review personnel file for prior discipline, comments in ROPs, obtain police report, and review accident report.
7. Level of investigation is level 3.

Level 1 investigations are conducted by Law Enforcement and include criminal allegations or events such as: 1) assault; 2) theft; and 3) drug possession.

Level 2 investigations are conducted by the Professional Standards Unit (PSU) and include non-criminal allegations or events or post-criminal investigation such as: 1) harassment; 2) workplace violence; 3) falsification of records; and 4) substance abuse.

Level 3 investigations are conducted by the Manager and include routine disciplinary events such as: 1) SOP violations; 2) safety violations; 3) customer service complaints; and 4) minor traffic accidents.

Consult with Human Resources or the Professional Standards Unit (PSU) if unsure of the level of the investigation to be conducted..

12. Discipline could result in a written reprimand or higher.
14. Advise employee of representation rights.
15. Representation is desired by the employee.
16. Wait to interrogate until representation can be arranged.
17. Conduct interrogation.
18. Level 1 or 2 conduct is not discovered.