

## OIR REPORT: September 2013

### **LASD's Recent Modifications to Policy Make It Perfectly Clear to Deputies that Getting Arrested and Being So Intoxicated in Public that Memory Loss Occurs Is a Policy Violation**

Several years ago, a deputy assigned to the jails was involved in three off-duty incidents within an eight month period of time. In the first incident, the deputy punched another person in a bar, causing the person to go into a coma and be hospitalized. The matter was investigated by another law enforcement agency and the deputy was referred for prosecution but no charges were filed. In the second incident, the deputy admitted to drinking in excess at a bar and upon leaving the bar punched another man who had bumped into him. The deputy could not recall the incident because he admitted that he had had too much to drink. The deputy was arrested but was eventually not prosecuted. In the third incident, the deputy was stopped while driving and was arrested after failing a field sobriety test. Again, the deputy was not prosecuted.

After concluding its internal investigation of these three incidents, LASD determined that the deputy had violated its general behavior policy which, at the time, instructed deputies that they should not act or behave while off duty in such a manner as to bring discredit or embarrassment to himself or the Department and imposed a substantial suspension on the deputy, concluding that the deputies' pattern of conduct was embarrassing even if he had not been prosecuted. OIR concurred with the finding and suspension. Five years later, a hearing was finally held on the deputy's appeal of the suspension. At the hearing, the deputy and his counsel argued and the hearing officer agreed that the deputy's conduct did not violate LASD's general behavior policy since he had not been prosecuted and thus there was no embarrassment for the Sheriff's Department. As a result, the findings against the deputy were undone as well as his resulting discipline.

After this case, OIR and the Sheriff's Department decided that deputies apparently needed more guidance on what it meant to bring discredit or embarrassment to them or the Department. As a result, the general behavior policy was changed to make it explicit that deputy "arrests or referrals for prosecution are an embarrassment to the Department and bring discredit upon the member and the Department regardless of whether a criminal case is filed and/or ultimately results in a conviction." To provide further guidance, the modified policy now instructs deputies that Department members "who are publicly intoxicated to the extent their recollection about an allegation of misconduct is affected have brought discredit upon themselves and/or the Department." It is expected and hoped that this refined guidance will further educate deputies, their legal representatives, and hearing officers what misconduct is proscribed by Sheriff Department policies and its core values.

This case is an example of how OIR continually reviews LASD policies to ensure that deputies are informed about the expectations of the Department so that there can be accountability when deputies conduct themselves contrary to those expectations.

