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April 11, 2019

TO: Supervisor Janice Hahn, Chair
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FROM: Rodrigo A. Castro-Silva 
Interim Inspector General

**SUBJECT: REPORT-BACK ON LASD INTERNAL ADMINISTRATIVE
INVESTIGATIONS AND DISPOSITIONS OF DISCIPLINARY ACTIONS**

This report-back is part of the Office of Inspector General's (OIG) monitoring functions of the Los Angeles County Sheriff's Department's (LASD/Department) administrative investigations and is in response to your Board's March 12, 2019 motion directing the OIG to report back "on a monthly basis outcomes and dispositions on disciplinary actions by the Department." This report-back covers the Department's actions with respect to both matters for the months of January and February 2019.

In accordance with Department policy and administrative-investigations guidelines in place since 2005, once an administrative investigation is initiated, whether the investigation is conducted at the unit level or by the Internal Affairs Bureau, it should be completed and reviewed by the employee's division for disposition. If the division's decision-maker determines the case is founded, the employee is served with a letter of intent setting forth the founded policy violations and intended discipline.¹

¹ An allegation of misconduct is "founded" when the investigation establishes by a preponderance of the evidence that the allegation is true and the conduct at issue is prohibited by law or Department policy. An allegation is "unfounded" when the investigation establishes by a preponderance of the evidence that the allegation is not true. An allegation is "unresolved" when the investigation fails to resolve by a preponderance of the evidence the conflict between the complainant's allegation and the employee's version of the incident at issue. An employee is "exonerated" when the investigation establishes by clear and convincing evidence that the employee was not involved in or connected with the incident, the allegation was demonstrably false or brought in bad faith, or the allegation, even if true, would not constitute a violation of law or Department policy. See Manual of Policies and Procedures (MPP) 3-04/020.25, Administrative Investigation Terminology.

The employee thereafter may either accept the discipline or respond to the letter of intent through the *Skelly*-hearing process or in writing. After the *Skelly* hearing or the employee's written response, the Department may impose the discipline as originally intended or modify its findings and/or discipline.

An employee can appeal discharges and suspensions from service in excess of five days to the Civil Service Commission. Lesser discipline, including written reprimands and bonus removals, can be appealed to the Employee Relations Commission (ERCOM).

Inactivation of Administrative Investigations

In early February 2019, we observed a sharp increase in the number of administrative investigations that the Department was inactivating. Upon inquiry to the Department, we were told that a Department directive had been issued in mid-December 2018 instructing chiefs, directors, and captains to re-evaluate all open administrative investigations to determine whether any of them should be inactivated.² On February 20, 2019, we asked the Department for copies of any such directive or guideline but, to date, have received no response.

Department policy allows a decision-maker, under limited circumstances, to inactivate an administrative investigation. Specifically, Manual of Policies and Procedures (MPP) section 3-04/020.20, Inactivation of Administrative Investigations, permits decision-makers to request the inactivation of an investigation by sending "a memo from the concerned Division Chief or Division Director to the Captain of Internal Affairs Bureau (IAB), detailing the reasons for the inactivation." When an investigation is inactivated, the investigation is terminated and no findings are made.

While Department policy strongly favors completing and making findings in all administrative investigations, policy also allows that when "continuing with an administrative investigation is pointless and inactivating the case is the more appropriate course of action," inactivation may be an acceptable course of action.³ Examples of when inactivation may be appropriate include when the subject of the investigation resigns or retires during the investigation, when a complainant withdraws the complaint or refuses to cooperate in the investigation, or when the complainant's allegations, even if founded, would not constitute a violation of law or Department policy.

Based on our review of the Department's data, we have found that from January 1, 2019, through February 28, 2019, forty-five administrative investigations were inactivated by

² This directive appears to be consistent with Sheriff Alex Villanueva's public statements. See, e.g., transcript of Sheriff Villanueva's statements before your Board on January 29, 2019, in which he defended his reinstatement of a formerly discharged employee and indicated his belief that the prior administration had initiated too many administrative investigations against LASD personnel, available at http://file.lacounty.gov/SDSInter/bos/sop/transcripts/1051114_012919C.pdf, accessed on February 25, 2019; and press conference on January 30, 2019, available at https://www.youtube.com/watch?v=mw4V8sB6_eM, accessed on February 25, 2019.

³ Administrative Investigations Handbook, Los Angeles County Sheriff's Department (2005).

the Department. This compares to a total of ten such investigations that were inactivated in the entire fourth quarter of 2018.⁴

Of the 45 inactivated investigations, 14 appear to have been inactivated in accordance with existing policy; 12 of those 14 investigations were inactivated because the employees resigned or retired; one of those 14 investigations was inactivated because it was initiated in error, i.e., the allegations had been investigated in a separate case and were duplicative; and one of those 14 investigations was inactivated because the one-year statute of limitations set forth in Government Code section 3304 had expired before completion of the investigation so the employee could not be disciplined.

The remaining 31 investigations appear to have been inactivated based on the new directive or direction, as they do not appear to be in conformance with Department policy. Specifically, the inactivation memos do not include a detailed explanation of why the investigation was inactivated. Moreover, none of the inactivated cases fell within the examples set forth in the policy and summarized above.

The investigations included allegations ranging from sleeping on duty to sexual misconduct with an inmate. In 20 of the 31 investigations, the employees' alleged conduct appears to have been in violation of Department policy. However, rather than wait until the administrative investigations were completed, concerned division chiefs inactivated the investigations by reclassifying the policy violations as "training issues" or adjudging that the conduct "did not warrant administrative investigations."

Among the investigations deemed to involve training issues were two involving the same deputy who was caught sleeping on duty,⁵ one involving an out-of-policy vehicle pursuit, and five involving traffic collisions. While these actions may not involve significant misconduct, they can and often do create liability for the County. When a deputy, for instance, sleeps through mandatory safety checks and does not render prompt aid to an inmate in distress or a deputy injures him or herself or others in a traffic collision, the County can end up paying significant amounts of money in litigation costs as a result.

A brief summary of each of the 31 inactivated investigations is included in Attachment A. We will update Attachment A monthly to add additional investigations that were inactivated for reasons other than those permitted by policy.

⁴ Conversely, statistics on the number of administrative investigations initiated by the Department from January 1 through March 19, 2019, show a marked decrease compared to the same time period for 2016, 2017, and 2018. Specifically, the Department initiated 188 administrative investigations in 2016, 187 in 2017, and 194 in 2018. In 2019 for the January through March time period, information provided by the Department indicates 71 administrative investigations have been initiated.

⁵ These two cases will be treated as one case for purposes of this report.

Cases in which Findings and/or Discipline was Modified after Letter of Intent Was Issued

Our staff also reviewed disciplinary cases in which discipline was imposed in January and February 2019. Of note was the number (21) and seriousness of cases in which the findings and/or discipline was modified from the findings and proposed discipline of those who originally reviewed the investigations.

A brief summary of each case is included in Attachment B, which we will update monthly to include newly modified cases.

Department's Response to this Report-Back

Consistent with existing protocols, the OIG provided the Department with a draft of this report-back to afford it an opportunity to identify any information it considered to be inaccurate or to which it objected for any reason to being publicly released.

The Department responded on April 10, 2019. Its response is attached to this report-back.

c: Alex Villanueva, Sheriff
Sachi A. Hamai, Chief Executive Officer
Celia Zavala, Executive Officer
Mary C. Wickham, County Counsel
Brian Williams, Executive Director, Civilian Oversight Commission

ATTACHMENT A
INACTIVATED INVESTIGATIONS

Inactivated Investigations Involving Criminal Allegations

1. A custody assistant was involved in an argument with his ex-girlfriend during a custody exchange of their child. It was alleged he lunged towards his ex-girlfriend but was held back by a relative. The custody assistant told law enforcement he was scratched on his arm by his ex-girlfriend. A video of the incident, however, showed the ex-girlfriend did not contact him at any time during the custody exchange. The Department inactivated the case indicating the custody assistant was not in violation of any laws or Department policies. The custody assistant had been previously demoted for misconduct relating to General Behavior and Disorderly Conduct policy violations. He also has three other pending administrative investigations. Two of the pending cases involve allegations of domestic violence and one of the cases involves an allegation that he was rude and may have been intoxicated when speaking with a Department employee on the phone about a perceived error in his paycheck.
2. A criminal case was presented to the District Attorney's office by another police agency against a deputy regarding allegations of criminal child abuse. The Department's Internal Affairs Bureau monitored the case but, as is the Department's practice, did not start its own administrative investigation while the criminal case was pending. The case was ultimately rejected by the District Attorney's office due to insufficient evidence to prove the case beyond a reasonable doubt. The deputy's ex-wife had tried to obtain two restraining orders against the deputy, both of which were denied. Rather than start an administrative investigation, the Department inactivated the case based upon the "totality of the circumstances," the deputy's cooperation during the process, and the belief that no policy violations were committed by the employee.
3. In 2017, an inmate in custody alleged that while she was in custody in the year 2000, she performed oral sex on a deputy in a cleaning-supply closet. She also alleged that in 2008 or 2009, when she returned to custody, the same deputy took her into a room near a courtroom where she performed oral sex on him again. The Department's Internal Criminal Bureau (ICIB) opened an investigation and the case was subsequently submitted to the District Attorney's office, which rejected it for insufficient evidence to support the inmate's allegations and because the statute of limitations had expired on both allegations. The Department inactivated the case and based its decision on the lack of video and physical evidence and any independent witnesses, concluding nothing further would be learned by conducting an administrative investigation.

4. An inmate suspected of secreting narcotics was tethered to a wall naked for an extended period of time. A criminal case was filed against multiple employees for exerting cruel and unusual punishment on the inmate, but the case was subsequently dismissed. Thereafter, a Division Chief requested that IAB conduct an administrative investigation into policy violations relating to the tethering of inmates to fixed objects. In January 2019, the former Division Chief's replacement submitted an inactivation memorandum to the Captain of IAB stating the case was being inactivated after "review of the case and circumstances." No additional information was provided. However, in the form letters to the affected employees signed by the Captain of IAB, the employees were advised they were not in violation of any policies and the case was inactivated "based on facts developed by the Internal Affairs Bureau." What investigation was conducted, if any, and what facts were relied upon to make this determination are unknown because it is unclear from documentation available to OIG staff whether IAB had started its investigation before receiving the request for inactivation.
5. A custody assistant was alleged to have been involved in a physical altercation with a family member where both parties were arrested for battery (mutual combat). The District Attorney's office did not file criminal charges. The Department inactivated the case and issued a Performance Log Entry (PLE).¹
6. A case was inactivated because a captain was asked questions about an incident by a former chief, in violation of the captain's rights under the Peace Officer Bill of Rights. No further information about the alleged underlying misconduct was available to OIG.
7. A civilian employee accused another civilian employee of using the tip of her fingernail to aggressively press down on her finger numerous times while pointing out corrections on a document. An outside police department was notified, and the case was submitted to the District Attorney's office for filing consideration. The case was rejected due to insufficient evidence and because of the minor nature of the assault alleged. The Department inactivated the case indicating there was no video and an internal investigation was not warranted.

¹ A PLE is comprised of interim supervisory notations about employee performance during a given rating period. It is not discipline and only stays in an employee's unit personnel folder until the annual evaluation process is complete.

Inactivated Investigations Involving Policy Violations Only

8. An ACLU complaint alleging a deputy exhibited a pattern of retaliating against inmates and referring to them using a derogatory term was filed. The deputy denied retaliating against the inmates but admitted to using the derogatory term when referring to them. The Department inactivated the case deeming the matter a training issue. No other reasons or analysis were documented in the inactivation memorandum.
9. A deputy was observed on video looking like he witnessed a force incident but failed to report it. Although no investigation appears to have been conducted by IAB in documentation available to OIG staff, a form letter to the deputy stated that based on facts developed by IAB, the deputy was not in violation of any Department policy. The matter was deemed a training issue by the unit.
10. A sergeant supervised the entry into an inmate's cell that resulted in a Category 2 use of force. The sergeant failed to develop a tactical plan or strategy leading up to, during, and following the use of force. The Department deemed the matter a training issue in its inactivation memorandum.
11. A deputy opened a pod door and engaged a recalcitrant inmate resulting in a use of force. Policy requires deputies to notify a supervisor before engaging with a recalcitrant inmate. The Department deemed the matter a training issue in its inactivation memorandum.
12. Because of a staffing shortage, a deputy was denied time off to attend an event. The deputy thereafter failed to show up to the deputy's assigned shift. The Department deemed the matter a training issue in its inactivation memorandum.
13. A civilian employee illegally parked a vehicle and pushed another vehicle out of the way in order to leave the scene. The incident was captured on video. The investigation was inactivated and the employee was given documented counseling and a PLE.
14. A deputy used a patrol vehicle to pick up his child from school while on duty and without permission from a supervisor. A complainant alleged the deputy drove erratically out of the school's parking lot with the vehicle's overhead lights and siren on. The investigation was inactivated and the deputy was issued a PLE.
15. A captain released confidential information relating to discipline of an employee to the news media. Although confidential information was released in violation of the Public Safety Officer's Bill of Rights Act (Government Code section 3300-3313), the investigation was inactivated because the Department did not deem the violation significant enough to warrant an administrative investigation.

16. A security officer drove a Department vehicle on a pedestrian sidewalk and struck a metal handrail resulting in moderate damage to the vehicle. The investigation was inactivated and the security officer was issued a PLE.
17. A deputy had two investigations involving his sleeping on the job. In the first case, he was requested to respond over the radio and failed to acknowledge the requests. He was found sleeping in an office. In the second case approximately one month later, a deputy who was escorting an injured deputy to seek medical attention saw the subject deputy sleeping in view of numerous civilian employees. In inactivating the investigations the Department deemed both cases to be a "training issue."
18. Over the course of several weeks, a lieutenant left work early and arrived to work late on several dates. When supervisors informed the lieutenant that he was the subject of an inquiry, the lieutenant adjusted his timesheets to reflect his actual arrival and departure times from work. Although the investigation was completed, the statute of limitations had been miscalculated and the case was inactivated because of the expired statute. Because the investigation was completed, findings could have been made on the case, but the Department would not have been able to discipline the lieutenant.
19. A lieutenant endorsed blank checks from the employee unit fund account in violation of policy on banking procedures. While the Internal Affairs Bureau completed its investigation of this matter, the Department in its inactivation memorandum concluded further administrative action was not required so findings were not made on the allegations of misconduct.
20. A sergeant was involved in an on-duty preventable traffic collision. The Department inactivated the investigation and issued a PLE.
21. A deputy was a passenger in a patrol vehicle during a traffic collision and was not wearing a seatbelt. The Department inactivated the investigation and issued the deputy a PLE.
22. A deputy was involved in a traffic collision and was not wearing a seatbelt. The Department inactivated the investigation and issued a PLE.
23. A custody assistant was ordered to work overtime and abandoned her post without permission. The Department inactivated the investigation and issued a PLE.
24. Five supervisors were alleged to have been involved in the implementation and oversight of a potentially unlawful unit order regarding fixed restraints on

inmates that was inconsistent with Department-wide policy. The Division Chief inactivated the investigation after a review of the case and circumstances.

25. A deputy was involved in a traffic collision and was not wearing his seatbelt. He acknowledged and accepted responsibility for his action. The Department concluded a full administrative investigation was not necessary and would prove futile based on the circumstances presented. The investigation was inactivated and a PLE was issued to the deputy.
26. A deputy responded to a violent assault on an inmate by other inmates. The inmate had been stabbed in the upper torso and was bleeding profusely. The deputy initiated a radio broadcast asking for a supervisor and back-up personnel to respond. Video depicts the deputy pointing his OC spray cannister at the suspects who continued their assault for another 1½ minutes before a second deputy arrived and deployed his OC spray. During a review of the incident, it was determined the deputy should have reacted quicker and delayed the rescue of the victim. The previous chief requested the case be handled by IAB. A current chief inactivated the investigation, deeming the incident a training issue.
27. A supervisor located over 200 inmate requests/grievances in drawers, some of which were about a year old and had not been addressed. The supervisor's inquiry determined a particular sergeant may have been responsible for at least three of the inmate requests/grievances being concealed in the drawer. After a chief reportedly reviewed documents and videos, the chief determined there was no policy violation and inactivated the administrative investigation. It is unclear from the documentation available to OIG staff what documents or video was reviewed. However, the sergeant had previously received a two-day suspension for misconduct involving inmate care.
28. A deputy violated the 96-hour overtime threshold policy for a second time in a two-month period. The deputy received a PLE after the first violation and was admonished that if he did not properly manage his overtime, he would be disciplined. The policy is in place in order to minimize the possibility that deputies are fatigued while performing their duties. The station captain sought a Pre-Disposition Settlement Agreement (PDSA) for a written reprimand for the violation. However, the concerned division chief inactivated the investigation and issued the deputy another PLE.
29. A deputy, through his Mobile Digital Computer, sent to his station an inappropriate message that was perceived by some co-workers as an attempt to intimidate and/or challenge them to a fight. The deputy had previously been disciplined for conduct involving Hazing, Derogatory Language, and Professional

Conduct policy violations. The investigation was inactivated, and the deputy was issued a PLE.

30. A deputy was involved in conduct that allegedly caused an inmate to become hostile and led to a use-of-force incident. The incident was being investigated by IAB. While it was acknowledged by the deputy's chief in the inactivation memoranda that the deputy could have used better tactics, the chief deemed the matter a training issue and inactivated it.
31. While driving a marked vehicle on a pedestrian sidewalk of a college campus, a security officer struck a wall resulting in minor damage to the vehicle. The security officer signed a PDSA with his captain for a two-day suspension. A chief, however, subsequently inactivated the case, rescinded the PDSA, and issued the security officer a PLE.

ATTACHMENT B

FOUNDED CASES WHERE FINDINGS AND/OR DISCIPLINE WAS MODIFIED AFTER LETTER OF INTENT WAS ISSUED

Modifications before Letter of Imposition Issued

1. In July 2018, a deputy was served with a letter of intent to discharge for maintaining a relationship with an individual convicted of narcotics charges and using Department resources to run an inquiry on the individual, in violation of the Fraternalization, Prohibited Association, Reporting Information, General Behavior, and Use of Communications Equipment policies. The 2012 Guidelines for Discipline provide that a founded violation of the Fraternalization or Prohibited Association policies is discharge. After the grievance hearing, the Department entered into a settlement agreement with the deputy whereby it removed all of the previously founded charges except the Use of Communications Equipment and added a founded charge of Performance to Standards for failing to obtain written consent to maintain a relationship with a person convicted of narcotics charges and for using a Department computer to obtain confidential information for personal and/or unofficial purposes. The deputy's discipline was reduced to a 10-day suspension and he was transferred from Patrol Operations to Court Services Division.
2. In August 2018, a law enforcement technician was served with a letter of intent to suspend her for 10 days for founded policy violations involving insubordination, conduct toward others, derogatory language, and workplace violence. The employee argued with a supervisor in front of coworkers, refused to follow a direct order, refused to put down scissors in her hand, and threatened harm against the supervisor when speaking to others about the incident. After the grievance hearing, the insubordination and workplace violence policy violations were removed but the other misconduct findings remained the same and the discipline was reduced to a two-day suspension.
3. In August 2018, a civilian employee was served with a letter of intent to suspend him for 10 days for multiple founded policy violations arising from off-duty incidents involving his conduct toward city officials. Specifically, he tried to enter a road closure without providing identification, drove forward and hit the traffic barricade causing part of it to hit and scratch a vehicle, threw traffic cones in the direction of two city officials and yelled at them. After the grievance hearing, the findings remained the same, but his discipline was reduced to a nine-day suspension.
4. In September 2018, a custody assistant was served with a letter of intent to suspend him for five days for inadequately conducting safety checks on an inmate and failing to immediately request medical attention. After the grievance hearing,

the founded policy violations for Performance to Standards and Obedience to Laws remained the same but his discipline was reduced to a two-day suspension.

5. In September 2018, a deputy was served with a letter of intent to suspend him for five days for failing to recognize that his use of control holds on a resisting suspect was reportable force and for failing to document his actions in a report, in violation of the Performance to Standards policy. After the grievance hearing, the Department entered into a settlement agreement. Based on the information available to OIG staff, we could not determine if there was a change in the findings, but the discipline was reduced to a two-day suspension.
6. In September 2018, a sergeant was served with a letter of intent to suspend him for 15 days for failing to recognize reportable force, failing to direct deputies to document their actions, and failing to conduct an inquiry into the deputies' actions, in violation of Performance to Standards, Obedience to Laws, Force Reporting, Force Review Procedures, and Sergeants policies. After the grievance hearing, the Department entered into a settlement agreement with the sergeant. Based on the information available to OIG staff, we could not determine if there was a change in the findings, but the discipline was reduced to a five-day suspension.
7. In October 2018, a deputy was served with a letter of intent to discharge for driving under the influence with a blood alcohol content of .15%, being involved in a traffic collision, and brandishing a firearm while intoxicated, in violation of General Behavior, Obedience to Laws, and Safety of Firearms policies. The 2012 Guidelines for Discipline provides a discipline range up to and including discharge for one or more of those violations. After the *Skelly* hearing, the Department entered into a settlement agreement leaving the findings in place but reducing the discharge to a 25-day suspension.
8. In October 2018, a sergeant was served with a letter of intent to suspend him for 12 days for wrongly allowing an inmate to stay in disciplinary housing for 10 days for possession of drugs even though it was almost immediately determined that the item he possessed was a makeshift ear plug made with crushed up potato chips. After the *Skelly* hearing, the founded policy violations for General Behavior, Obedience to Laws, Responsibilities of a Supervisor, and Discipline Review procedures were all reversed, and his discipline was reduced to a two-day suspension for a Performance to Standards policy violation.
9. In October 2018, a deputy was served with a letter of intent to suspend her for five days for throwing a water bottle toward a female inmate to get her to lay down on her bunk. The incident was captured on video. After the grievance hearing, the founded policy violations for Obedience to Laws and Performance to

Standards remained the same but the discipline was reduced to a two-day suspension.

10. In October 2018, a cook was served with a letter of intent to suspend him for 15 days for founded False Statements because he provided inaccurate information to a supervisor during an inquiry into the whereabouts of and reason for another employee's absence. After the grievance hearing, the False Statements charge was removed and his discipline was reduced to a five-day suspension for a founded Performance to Standards policy violation for the same false-statements misconduct, i.e., providing inaccurate information to a supervisor during an inquiry into the whereabouts of and reason for another employee's absence.
11. In October 2018, a deputy was served with a letter of intent to suspend him for 15 days for deploying a Taser on a naked individual multiple times when the individual was no longer assaultive or high risk, for punching him in the head and torso multiple times when trying to handcuff him, and for confronting an uncooperative suspect secured in the back seat of his vehicle without summoning additional assistance, in violation of the Unreasonable Force, Force Prevention, Tactical Incidents, Taser, Performance to Standards, and Obedience to Laws policies. The 2012 Guidelines for Discipline provide for a minimum 15-day suspension for a violation of the Unreasonable Force policy. After his grievance hearing, the Department entered into a settlement agreement whereby the unreasonable force and force prevention policy violations were deemed "unfounded" and his discipline was reduced to a three-day suspension.
12. In October 2018, a deputy was served with a letter of intent to suspend her for 15 days for deploying a Taser on a naked individual multiple times when he was no longer assaultive or high risk, in violation of the Unreasonable Force, Taser, Performance to Standards, and Obedience to Laws policies. After her grievance hearing, the Department entered into a settlement agreement whereby the Unreasonable Force and Performance to Standards policy findings were deemed "unfounded" and the discipline was reduced to a written reprimand for failing to identify and articulate independent observations related to the decision to use the Taser.
13. In November 2018, a custody assistant was served with a letter of intent to discharge for engaging in prostitution, having sexual intercourse with a minor, and false information in his application for employment, in violation of General Behavior, Immoral Conduct, Obedience to Laws, and False Information in Records Policies. The 2012 Guidelines for Discipline provides a discipline range of up to and including discharge for one or more of those violations. After the *Skelly* hearing, the Department entered into a settlement agreement with the custody assistant whereby the finding of False Information in Records was

removed, the discharge was rescinded, and the employee received a 15-day suspension.

14. In November 2018, a deputy was served with a letter of intent to suspend him for three days for failing to secure the module row gates, which resulted in an inmate getting assaulted by another inmate. The deputy also allowed unauthorized inmates to be present in the module. After the grievance hearing, the discipline was reduced to a written reprimand. Based on the information available to OIG staff, we could not determine if there was a change in the findings.
15. In November 2018, a custody assistant was served with a letter of intent to discharge for failing to report witnessed use of force and making false statements, in violation of the Force Reporting, False Statements, Honesty, Responsibility for Documentation, Performance to Standards, and Obedience to Laws policies. The 2012 Guidelines for Discipline provides a discipline range of up to and including discharge for one or more of those violations. After his grievance hearing, the Department entered into a settlement agreement with the custody assistant whereby the False Statements charges were deemed “unresolved,” and his discipline was reduced to a 20-day suspension for taking no action to assist co-workers in a use of force, failing to report witnessed use of force, failing to submit a memorandum after being ordered to do so multiple times by a supervisor, and telling a supervisor he did not witness the force when questioned about the use of force.
16. In November 2018, a deputy was served with a letter of intent to suspend him for five days for engaging in sexual intercourse and oral copulation in a vehicle parked in a public parking lot and being investigated for rape, in violation of General Behavior and Disorderly Conduct policies. After the grievance hearing, the Department entered into a settlement agreement modifying the findings to deem the General Behavior policy violation “unfounded” and deleting any reference in the findings to oral copulation and to being investigated for a rape allegation. The deputy’s discipline was reduced to a one-day suspension.

Modifications after Letter of Imposition Issued

17. A deputy involved in a significant force incident captured on video in 2016 was investigated by ICIB for assault under color of authority, in violation of Penal Code section 149. The force involved pointing a gun at a suspect and yelling, “Don’t fucking move or I’m gonna shoot you, dipshit,” and then punching the suspect numerous times after throwing him to the ground. The District Attorney’s office declined to file criminal charges. The case was thereafter investigated by IAB and presented to the Executive Force Review Committee (EFRC) for review. The EFRC panel comprised of three commanders found the force and tactics were out of policy, in violation of the Unreasonable Force, Force

Prevention, Tactical Incidents, Performance to Standards, and Obedience to Laws policies. The EFRC panel recommended the deputy be terminated and the Case Review panel, comprised of the Undersheriff and two assistant sheriffs, concurred with the recommendation in March 2018. The 2012 Guidelines for Discipline provides a discipline range of up to and including discharge for one or more of those violations. After the letter of imposition was issued to the deputy and while the case was pending before the Civil Service Commission, the Department entered into a settlement agreement with the deputy whereby the findings remained the same, but the discharge was reduced to a 30-day suspension.

18. A deputy was discharged in February 2018 for maintaining a relationship with a member of a criminal street gang, in violation of the Fraternalization, General Behavior, and Obedience to Laws policies. While the case was pending before the Civil Service Commission, the Department entered into a settlement agreement with the deputy. The Department's internal database indicates the findings were unmodified, but the discharge was reversed and the deputy will receive "no discipline" because the Department concluded that discipline could not be imposed within the one-year statute of limitations as required by Government Code section 3304.
19. A deputy was suspended for 15 days in 2018 for an incident involving the police responding to his residence because of a heated argument and an alleged threat to blow his girlfriend's head off that was overheard by a neighbor but denied by the girlfriend. The deputy was intoxicated, repeatedly refused to cooperate with the responding officers, used profanity toward them, and delayed their investigation, in violation of the Obstructing an Investigation, Conduct Toward Others, Professional Conduct, General Behavior, and Obedience to Laws policies. The deputy had previously been investigated for a rape allegation involving a woman he had met while on duty, but the case was deemed unresolved due, in part, to the woman's level of intoxication. While the case was pending before the Civil Service Commission, the Department entered into a settlement agreement whereby the findings remained the same, but the discipline was reduced to a five-day suspension.
20. A custody assistant was suspended for 15 days in 2017 for confronting a recalcitrant inmate without notifying a supervisor and failing to report a use of force against a handcuffed inmate, in violation of the Use of Force, Recalcitrant Inmate, Handcuffing, Performance to Standards, and Obedience to Laws policies. The incident was captured on video. While the case was pending before the Civil Service Commission, the Department entered into a settlement agreement with the custody assistant whereby the findings remained the same, but the discipline was reduced to a six-day suspension.

21. In 2018, after the custody assistant above served his 15-day suspension, he was discharged for driving under the influence of alcohol, in violation of Obedience to Laws and General Behavior policies. The 2012 Guidelines for Discipline provides for a 15-day suspension for those violations. However, such a suspension does not take into account progressive discipline. The custody assistant had been demoted in 2010 from a deputy to a custody assistant for off-duty misconduct involving his participation in a fight at a bar, in violation of the Disorderly Conduct, General Behavior, Off-Duty Incidents, and Obedience to Laws policies. Additionally, in 2015, he was suspended for 15 days for failing to report force, in violation of the Use of Force Reporting Procedures, Performance to Standards, and Obedience to Laws policies. While the discharge case was pending before the Civil Service Commission, the Department entered into a settlement agreement whereby the findings remained the same, but the discipline was reduced to a 15-day suspension.

**LASD RESPONSE TO THE OFFICE
OF INSPECTOR GENERAL REPORT
BACK ON MONITORING OF LASD
INTERNAL ADMINISTRATIVE
INVESTIGATIONS**

INTRODUCTION

This portfolio was produced to provide an internal response to the County of Los Angeles Office of Inspector General's (OIG) memorandum to the Los Angeles County Board of Supervisors dated April 1, 2019. The subject line of the OIG memorandum specifically stated "Report-Back on the Monitoring of LASD Internal Administrative Investigations."

BACKGROUND

On March 12, 2019, the Los Angeles County Board of Supervisors directed the OIG "to continue to monitor and report back to the Board on a monthly basis outcomes and dispositions on disciplinary actions taken by the Department, as well as any efforts or actions taken by the Sheriff to implement the Commission or similar process to reevaluate discipline."¹ On March 29, 2019, The OIG provided the Department with a submission draft of its first report. The OIG report asserts to be a tracking of the disposition of the Department's administrative investigations from January 1, 2019 through February 28, 2019.

The OIG report incorporates two attachments (A and B). Attachment A chronicles forty-five administrative investigations that were inactivated by the Department.² Attachment B provides a synopsis of twenty-one founded administrative cases where findings and/or discipline were modified after the employee was served the Letter of Intent.

RESPONSE

The OIG report reflects a superficial snapshot of selected inactivated administrative cases and founded investigations that resulted in modified discipline.

The current administration is steadfast in ensuring a fair and balanced disciplinary process for its sworn and civilian employees. Accordingly, as it relates to administrative investigations, as new information arises that mandates a different course of action be taken, it is the duty of Department executives to respond in a manner that is in the best interest of both the employee and the Department. This course of action, in some instances, when warranted, includes the inactivation of the administrative case. Moreover, as it relates to modification of discipline, this administration acknowledges the grievance or Skelly process is a crucial component in maintaining an equitable disciplinary process. Department executives are expected to respect this vital component by objectively considering all information presented by the employee and

¹ See page 4 of Motion by Supervisors Mark Ridley-Thomas and Sheila Kuehl entitled "Evaluated the Legality of the Proposed "Truth and Reconciliation Commission" and the Reexamination of Sheriff Discipline Cases"

² Internal Affairs Bureau reports a total of 44 cases inactivated from January 1, 2019 through February 28, 2019.

subsequently conducting a fair and reasonable review of the case prior to imposing discipline. In cases where, based on the totality of the facts presented, modification of discipline is justified, Department executives have the discretion to do so.

Employee Relations prepares settlement agreements that result from filed grievances involving discipline ranging from written reprimand to thirty (30) days.

Advocacy Unit prepares settlement agreements that result from all discharge cases and all discipline imposed for members of Bargaining Unit 721 prior to an appeal filed at the Civil Service Commission.

Settlement agreements prepared as a result of an appeal at the Civil Service Commission or Employee Relations Commission have been vetted through County Counsel prior to signatures being procured from the parties and final execution.



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MARY C. WICKHAM
County Counsel

April 12, 2019

TO: RODRIGO A. CASTRO-SILVA
Interim Inspector General

CELIA ZAVALA
Executive Officer

FROM: MARY C. WICKHAM
County Counsel

A handwritten signature in blue ink that reads "Mary C. Wickham".

RE: **Office of Inspector General Report and Los Angeles County
Sheriff's Department Response**

The Office of the County Counsel has reviewed the Office of Inspector General's ("OIG") Report-Back on the Los Angeles Sheriff's Department ("LASD") Internal Administrative Investigations and Dispositions of Disciplinary Actions. We have also reviewed the LASD Response. The LASD Response states that certain settlement agreements of matters appealed to the Civil Service Commission or the Employee Relations Commission "have been vetted through County Counsel" prior to execution.

The Office of the County Counsel is comprised of nearly 300 attorneys, many of whom are stationed in various County departments. The general involvement of an attorney from the Office does not constitute approval of an agreement. Rather, to be approved by the Office of the County Counsel, all settlement agreements must be signed by a County Counsel attorney or an authorized attorney acting on County Counsel's behalf. In the absence of such signatures, a settlement agreement has not been approved by the Office of County Counsel.

MCW:mag