



County of Los Angeles CHIEF EXECUTIVE OFFICE

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Chief Executive Officer

July 18, 2019

To: Supervisor Janice Hahn, Chair
Supervisor Hilda L. Solis
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Kathryn Barger

From: Sachi A. Hamai
Chief Executive Officer

Board of Supervisors
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First District

MARK RIDLEY-THOMAS
Second District

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Third District

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Fourth District

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Fifth District

REPORT BACK ON THE COMPREHENSIVE STUDY OF SECRET SHERIFF'S DEPUTY SUBGROUPS (ITEM NO. 41-A, AGENDA OF MARCH 12, 2019)

On March 12, 2019, the Board of Supervisors (Board), as part of a comprehensive study of deputy subgroups within the Sheriff's Department (Department), directed the Chief Executive Officer (CEO) in consultation with the offices of the Public Defender (PD) and District Attorney (DA) to report back in 30 days, which was extended until June 14, 2019, with recommendations on how to expand the integrity units of each office to appropriately respond to identified relevant issues.

BACKGROUND

Deputy subgroups who self-associate and self-identify have existed for decades within the Department and have names such as the "Little Devils," "Banditos," "Reapers," and often bear unique tattoos. The Citizens' Commission on Jail Violence (CCJV) reported that these cliques exhibit patterns of insubordination, aggressive behaviors and excessive force and found that the Department's tolerance of deputy cliques contributed to excessive use of force in the jails. The CCJV recommended that the Department should employ a rotation policy to protect against the development of cliques and discourage staff participation in these cliques. The CCJV further recommended that the Department should vigorously investigate and discipline off-duty misconduct as it relates to the actions of the deputy subgroups.

EXECUTIVE SUMMARY

The CEO requested PD, DA and the Department of Human Resources (DHR) to identify existing and potential resources to respond to officer misconduct, ensure the disclosure of officer exculpatory evidence, and which countywide human resource policies and procedures are in place for employees to address a hostile workplace, harassment and/or discrimination. The attached describes the separate integrity units within the PD and DA, and their roles in responding to legal defenses and prosecutions when issues of officer misconduct are present during court proceedings (Attachment). In addition, the attached also highlights DHR policies and procedures that are useful to County employees to assist with reporting, investigating and resolving workplace issues.

CONCLUSION

The behavior of these deputy subgroups is abhorrent and unacceptable both in and outside of the workplace. Both the PD and DA investigate cases where the conduct of the law enforcement officer is considered criminal in nature or has an impact on court criminal proceedings.

During Fiscal Year 2019-20 Final Changes, the CEO recommended, and the Board approved the addition of 1.0 position to the PD's Public Integrity Assurance Unit. The PD envisions this person will assess existing practices relating to officer accountability, serve as an advisor to the PD's senior leadership, and develop and implement new policies and procedures to respond to relevant issues as they arise.

The PD and DA will continue to evaluate their capabilities to respond to officer misconduct, while balancing overall competing priorities and needs of their respective department, and within the context of limited County resources. At this time, no additional resources are being requested by the departments. DHR, however, has provided the following recommendation for the Board's consideration:

- Increase Sheriff's deputies' awareness through outreach and training to report concerns of harassment or abuse from subgroups to an impartial or third-party entity.

In response, the Department may enhance their current training curriculum to include both internal and external reporting options available to staff as follows:

- Internal reporting may be facilitated through the Department's Policy of Equality and internal grievance process. Deputies may contact the Internal Intake Specialist Unit or any superior to report misconduct.

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- External reporting may be initiated by contacting the Executive Office of the Board's County Equity Oversight Panel - Intake Specialist Unit if a protected basis is involved and authorize the County Intake Specialist Unit and the DHR County Equity Investigations Unit to conduct an assessment and investigation of any complaints received.
- Furthermore, the Department's personnel may be encouraged to contact the Auditor-Controller's Office of County Investigations Fraud Hotline to report conduct such as fraud, waste, abuse, or misappropriation of County resources.
- Lastly, employees may also file external complaints with the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission.

If you or your staff have any questions, please contact me or René Phillips at rphillips@ceo.lacounty.gov or at (213) 974-1478.

SAH:FAD:MM:SW
RCP:DR:cc

Attachment

c: Executive Office, Board of Supervisors
County Counsel
District Attorney
Sheriff
Human Resources
Public Defender

PUBLIC DEFENDER (PD) - PUBLIC INTEGRITY ASSURANCE SECTION (PIAS)*Historical Operations*

The original mandate of the PD's PIAS was to seek post-conviction relief for defendants in custody based upon the wrongful conduct of law enforcement. The unit was formed approximately 20 years ago in the wake of allegations against the Los Angeles Police Department's officers at the Rampart Station. PIAS also served to train PD trial staff on the means and methods of discovering exculpatory evidence, including keeping information on Pitchess motions. The Pitchess motion, established by statute in the California Evidence Code and by case law (*Pitchess v. Superior Court*), provides defense lawyers a Court process (by motion) for obtaining potential impeachment information about alleged officer misconduct or dishonesty, that would be impactful to the legal defense. Additionally, PIAS tracks Brady material, per the Supreme Court case *Brady v. Maryland*, which is exculpatory evidence the prosecution must turn over to the defense. Often this exculpatory information involves police dishonesty, and PIAS utilizes this information to help lawyers challenge police misconduct at trial.

Current Operations

Over the years, as the work on Rampart scandal cases concluded, additional post-conviction relief projects were assigned to the PIAS unit. Proposition 36, approved by California voters on November 6, 2012, amended the three-strikes law to limit third strike sentences (25 years-to-life) to felonies classified as serious or violent, and added means for those serving third strike sentences to have their cases reduced to second strike sentences for potential relief. PIAS was assigned to represent a portion of the population of PD clients potentially eligible for Proposition 36 relief. Most recently, with the passage of Senate Bill (SB) 1437, which redefines what is deemed the accomplice liability for felony murder convictions (codified as Penal Code Section 1170.95), PIAS has been assigned the responsibility of representing those individuals who may be eligible for resentencing of their murder convictions under this new law.

To provide PIAS new opportunities to reconstitute its police monitoring capabilities, the PD requested, as part of Fiscal Year 2019-20 Adopted Budget, 1.0 new position, namely a Law Enforcement Accountability Advisor. The new advisor will assess current PD practices relating to police misconduct, including Pitchess and Brady information monitoring, as well as implement new policies and procedures to address SB 1421, which became effective on January 1, 2019. SB 1421 amended Government Code Section 832.7 to allow public inspection of certain peace officer personnel records relating to specific incidents, complaints, and investigations through the Public Records Act (PRA) to aid in client defense. The implications of this new law are far-reaching, as the amount

of material now available to the defense through a PRA request is voluminous and is information the defense should obtain on behalf of its clients. The Law Enforcement Accountability Advisor will provide new direction for PIAS and further help the PD defend clients, as well as evaluate, assess, and understand community needs in relation to law enforcement.

DISTRICT ATTORNEY (DA) - JUSTICE SYSTEM INTEGRITY DIVISION (JSID)

Current Operations

The DA's JSID consists of a team of prosecutors and investigators responsible for the prosecution and investigation of alleged criminal misconduct by peace officers, judges, and attorneys working in the justice system. Individuals sworn to uphold the law lead by example based on principles of honesty, integrity, credibility and accountability. The objective of JSID is to maintain confidence in the court system and law enforcement in general and enhance the DA's ability to successfully prosecute criminal cases. This mission is accomplished with a complement of Deputy DA, investigators and legal support staff. Also, within JSID is a DA Response Team unit, charged with responding to and investigating, countywide, officer-involved shootings where an individual is struck by gunfire and in-custody deaths where law enforcement proximately caused the death. JSID attorneys handle cases in addition to field media inquiries and respond to Public Records Act requests.

DEPARTMENT OF HUMAN RESOURCES (DHR) - COUNTY POLICIES AND PROCEDURES TO ADDRESS WORKPLACE MATTERS

County Code and DHR Policies, Procedures and Guidelines

Federal and State law (Title VII of the Civil Rights Act of 1964 and California's Fair Employment and Housing Act, commonly referred to as FEHA), as well as County code provisions and County policies prohibit a hostile work environment where employees fear retaliation for making complaints or engaging in protected activities, such as participating in investigations. Retaliation occurs when an employer takes a materially adverse action because an individual has engaged, or may engage, in a protected activity. Under the federal guidelines, individuals are free to raise complaints of potential violations or engage in other protected activities without employers taking materially adverse actions in response. The County has implemented numerous policies to protect County employees from harassment and unprofessional conduct in the workplace, including, but not limited to, the following:

- County Code, Section 5.09, Policy of Equity and specifically Sub-Section 5.09.010, Policy of Statement, seeks to preserve the dignity and professionalism of the workplace as well as to protect the right of employees to be free from discrimination, harassment, retaliation and/or inappropriate conduct toward others based on a protected characteristic.
- County Code, Section 5.10, Policy on Diversity, establishes that the County's objective is "to foster a high performing productive organization and an inclusive workplace environment in which each person is valued based on individual characteristics rather than on stereotypes or assumptions."

DHR Policies, Procedures, and Guidelines (PPG) 809 commits the County to providing all employees a healthy, respectful, courteous and safe work environment and indicates that any form of abusive conduct in the workplace is unacceptable. PPG 812 further outlines the County Policy of Equity and an intent to preserve the dignity, respect, and professionalism of the workplace by preventing harassment, retaliation and inappropriate conduct toward others based on protected statuses that are contrary to the values of the County.

The County's Civil Service Rules 18.031 and County Charter, Article IX, Section 30(2), establishes a high and uniform standard of accountability for employees at all levels of County Government by each Department Head.

Civil Service Rule 25 provides that no person in the classified service shall be discriminated against in any way based upon personal or social characteristics or traits not substantially related to successful performance of the duties of position. Affiliations and organizational membership may not be used to treat individuals differently.

Sheriff's Department (Department) Internal Reporting Process

Based upon DHR's review, the Department has instituted trainings and a reporting outlet for its Deputies and civilian employees to utilize when faced with acts of discrimination, harassment, retaliation, verbal abuse, hazing, workplace threats of violence, bullying and other unacceptable behaviors. These internal processes include the Department's Policy of Equality and the internal grievance process. When issues of verbal abuse, workplace threats of violence and hazing involving deputy subgroups arise, deputies are informed that they may contact the Internal Intake Specialist Unit or any superior to report misconduct. Once a complaint has been filed, the Department reports that all matters, whether administrative or criminal are investigated.

In order to respond to employee concerns of harassment, hazing and other inappropriate conduct, promoting the use of objective and impartial entities to report concerns is vitally important. Sheriff's deputies are encouraged to report retaliation concerns or harassing conduct to any of the following internal Departmental options including: 1) Internal Affairs Bureau, 2) Ombudsperson/Career Resource Center, 3) Sheriff's Department 24-hour Hotline, or 4) Sheriff's Department Policy of Equality – Internal Intake Specialist Unit.

External Reporting Options for County Employees

Employees may not feel comfortable reporting offending conduct within the Department for fear of retaliation or belief that little will be done to change the behavior. To ensure a safe and respectful workplace, the County provides employees the following alternative reporting options:

- Contact the Executive Office of the Board's County Equity Oversight Panel - Intake Specialist Unit if a protected basis is involved and authorize the County Intake Specialist Unit and the DHR County Equity Investigations Unit to conduct an assessment and investigation of any received complaints;
- Contact the Auditor-Controller's Office of County Investigations Fraud Hotline to report inappropriate conduct such as fraud, waste, abuse, or misappropriation of County resources; and
- Employees may file external complaints with the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission.