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October 17, 2007

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

OFFICE OF INDEPENDENT REVIEW

This responds to a motion by Supervisor Yaroslavsky which asked the Chief Executive Office (CEO) to report back in 30 days with an overview of the performance of the Office of Independent Review (OIR).

Background

The OIR was created in October 2001 as a civilian oversight body that would report directly to the Board of Supervisors and was designed to ensure the integrity of the Los Angeles County Sheriff Department's (LASD) internal misconduct investigations. The mission of the OIR is to monitor LASD and to provide legal advice to ensure that allegations of officer misconduct involving LASD are investigated in a thorough, fair and impartial manner. OIR attorneys work closely with LASD on a daily basis. The OIR also reviews departmental policies and practices, and makes recommendations where appropriate to enhance both officer performance and the safeguarding of individual rights. With the Sheriff's full support, the OIR has full access to relevant documents, meetings, and personnel within LASD. In addition, the OIR provides independent counsel to the Board and the Sheriff concerning the Department's internal investigations.

The OIR is currently staffed with five attorneys: Michael J. Gennaco, Chief Attorney; Rob Miller, Deputy Chief Attorney; Benjamin Jones, Deputy Chief Attorney; Stephen J. Connolly, Senior Attorney; and Julie M. Ruhlin, Attorney. The sixth position was

recently vacated by Ilana Rosenzweig, who resigned on August 31, 2007 to head the city of Chicago's Office of Professional Standards, a separate entity from the Chicago Police Department.

Overview

The OIR works closely with the LASD's Internal Affairs Bureau (IAB) and Internal Criminal Investigations Bureau (ICIB). Any and all ongoing investigations are reviewed by the OIR to determine if further review is necessary. The attorneys are also able to participate in ongoing investigations as needed to promote their effectiveness as well as to ensure a thorough, fair and impartial review. Each OIR attorney is assigned as a liaison for the LASD's various stations, facilities, bureaus, and courts. The attorney is responsible for any relevant business with the unit commander. In addition, each attorney is also on call 24-hour/7 days once out of every five weeks to respond to critical events such as deputy involved shootings, inmate homicides, inmate suicides, and major use of force. The attorney rolls out with the LASD investigative team when an incident occurs and often actively participates in the investigation with the lead investigator assigned to the case.

The OIR reviews claims and lawsuits made against the LASD. The OIR reviews 400 – 600 claims and approximately 200 lawsuits per year. Each claim and lawsuit is assigned to an attorney for review based on their liaison assignment.

The OIR reports on a regular basis to the Board and public in the following ways:

- *Annual Report*: published each October with a review of the year focusing on systemic reform and trend;

- *Quarterly Report of Oversight of Administrative Discipline Cases*: published each quarter which details in table format a synopsis of the progress of cases monitored closely by the OIR;

- *Monthly Report on Open Excessive Force Cases*: confidentially published monthly a summary of ongoing cases involving allegations of excessive force; and

- *Bi-Monthly Meetings with Justice Deputies*: scheduled agenda meetings discussing systems and important disciplinary cases.

In addition, the OIR also issues special reports and evaluations (some confidential and others public) as requested by the Board on high profile incidences. The following are examples of special reports produced by the OIR:

- The Newburn case – a confidential report on allegations coming out of a lawsuit resulting in a significant settlement alleging false arrest, etc.

- The Evans case – a confidential report on allegations coming out of a lawsuit resulting in a significant settlement alleging wrongful death in the jail.

- Five inmate homicides – a public report on five inmate homicides that occurred over a relatively brief period in the jails.

- The Compton shooting – a public report on an incident in which 120 rounds were shot by deputies into a moving vehicle.

- The Gavira case – a confidential report on allegations that deputies murdered an inmate coming out of a lawsuit that resulted in a substantial settlement.

The OIR assignments are derived from a variety of sources – either through direct contact, referral from Board offices, or referral from other entities such as public interest groups, attorneys, judges, etc. The OIR receives a number of complaints about LASD alleging misconduct. From these referrals, OIR becomes involved in ensuring appropriate handling of these complaints by LASD. The OIR also follows up with the complainant regarding the outcome of OIR's review. Within the last calendar year, the OIR has received 64 referrals of this nature.

The OIR participates in training and gives presentations involving internal investigative issues, discipline, systemic reform, and accountability as requested by the department and outside agencies. This year they have also conducted over 30 training/presentations to LASD executives, LASD training academy, public interest and advocacy groups, the National Association of Civilian Oversight Law Enforcement (NACOLE), contract cities conferences, foreign dignitaries, and various other entities.

Performance Overview

During our review of the OIR's performance, our office has determined that OIR has provided the following:

- ***Credibility to the LASD investigation process*** when the OIR is involved. The presence of an independent body such as the OIR provides added assurance

when they are on site with the LASD investigators conducting the investigation. This presence gives the investigation another set of "eyes" that are not biased or vested with the LASD organization. The OIR's investigation process is from the ground up – rolling out to major critical events with the investigative team and following up, as needed, as the case progresses.

- ***Accountability*** – the OIR ensures the department is accountable for its actions by making sure that due process is served. The OIR makes recommendations regarding improving investigations, disciplinary decisions, training suggestions and policy revisions to ensure that each decision/act is well thought out and beneficial to the department.

- ***Streamlined/stabilized discipline process*** – by ensuring that departmental policies and protocols are thorough, fair and impartial. Oftentimes it is difficult to make decisions without factoring in favoritism or friendship. The OIR assists with this process by providing an objective review of the facts involved without the hindrance of favoritism, friendship or personality bias.

- ***Objectivity*** –the OIR is not affiliated with the LASD or the County; the body provides valuable objectivity when reviewing the LASD internal investigation process. Due to this objectivity, the group can identify trends and/or patterns the department may not be able to see since the department is sometimes too close to the matter at hand. These insights are shared frequently with the Sheriff.

- ***Better liability outcomes to the department*** – by having the OIR monitor the department's actions, LASD personnel are more cognizant to follow departmental policy. Deputies are aware that if departmental policies are not followed, there is a high probability that OIR will question them on why protocol was not followed. When the department follows the established protocols, there is less of a chance of liability against the department.

- ***Respected by outside agencies, community groups and media*** – the OIR's performance has been met favorably by agencies, community groups and media. Oftentimes the Chief Attorney, Michael J. Gennaco, is quoted by media in ongoing LASD incidents/investigations. Outside agencies such as NACOLE have referred to the OIR as subject matter experts. Community groups and stakeholders have come to regard the OIR as community liaisons when they are unable to reach a satisfactory response from the department. The OIR then acts on behalf of the community groups/stakeholders to assist them with a resolution to their problem/issue.

- ***Public confidence*** - the OIR's involvement gives the public confidence knowing that the LASD investigation is being monitored by an oversight body. The OIR's ability to be objective and impartial gives the review process more credibility. The idea that the department will cover up or hide essential facts from the case will have less significance when the OIR is involved to ensure the integrity of the investigation.

If you have any questions or need additional information, please contact me, or your staff may contact Anna Hom-Wong at (213) 893-2295.

WTF:SRH:LN
AHW:dc

c: Executive Officer, Board of Supervisors
County Counsel
Sheriff's Department
Office of Independent Review