

**CITIZENS' COMMISSION ON
JAIL VIOLENCE**

**EXECUTIVE SUMMARY
THIRTEENTH REPORT
OF THE IMPLEMENTATION MONITOR
RICHARD E. DROOYAN
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THIRTEENTH REPORT OF THE IMPLEMENTATION MONITOR EXECUTIVE SUMMARY

INTRODUCTION

Since submitting my Twelfth Report on February 10, 2014, regarding the implementation of the recommendations of the Citizens' Commission on Jail Violence (the "Commission") by the Los Angeles Sheriff's Department (the "Department"), I met with the Sheriff John Scott and with Assistant Sheriff for Custody Operations Terri McDonald to discuss the status of the Department's implementation of the Commission's recommendations and the management of Custody Operations. I also met with representatives of the Department and the Office of Independent Review (the "OIR"), the Inspector General, and attorneys who represent the Department in use of force cases to discuss the Department's Use of Force Policy in light of the California Supreme Court's decision in *Hayes v. County of San Diego*. I also attended meetings with the Department and Chief Executive's Office to discuss the classification of auditor positions, reviewed the Department's use of force statistics, and spoke with the County Counsel and the Inspector General regarding creation of the Office of Inspector General (the "OIG").

The status of the Department's implementation of the Commission's recommendations is unchanged since my last Report. The Department's implementation of most of the Commission's remaining recommendations is scheduled to take place over the next two fiscal years in accordance with the Department's Proposed Budget Timeline submitted to the Board on October 1, 2013. Some of the Commission's recommendations for training (Recommendations 5.2, 5.3, 5.8, 6.1 and 6.3) supervisory (6.5), investigative (7.6) , and auditing (4.12) will not be fully implemented until fiscal year 2014 or 2015, and the recommendation to upgrade the computer system (3.8) will not be implemented until 2015.

The Department has completed its assessment of the operational needs of its jail facilities (Recommendation 4.11), and it is in the process of reviewing the duty statements for clerical staff to handle administrative responsibilities that sworn deputies and Custody Assistants now handle. The Department has assigned personnel to the newly created internal audit command, which has been renamed the Internal Monitoring, Performance Audits and Accountability Command (“IMPAAC”), but it is still seeking from the Chief Executive’s Office a classification for auditor positions with the necessary skill set to conduct performance audits and inspections of a law enforcement agency. (Recommendation 4.12.) The Department has also installed two body scanners in the Inmate Reception Center (“IRC”), but it has not started the 90-day pilot program because of concerns raised by the deputies’ union. (Recommendation 3.12).

As reflected in the summary chart set forth below, the Department has implemented 45 of the Commission’s 60 recommendations; partially implemented another 10 recommendations and is in the process of implementing another five recommendations.

Category	Implemented	Partially Implemented	In progress	Total	Funding Approved
Use of Force	10	0	2	12	2
Management	12	0	2	14	1
Culture	5	3	0	8	3
Personnel/ Training	5	5	0	10	3
Discipline	12	2	1	15	5
Oversight	1	0	0	1	0
Total	45	10	5	60	14

Sheriff John Scott has now implemented a reorganization that differs in some respects from the Commission's recommendations implemented by Sheriff Baca. The Assistant Sheriffs, the Chief of the Professional Standards Division (formerly the Internal Investigation Division), which includes the Internal Affairs Bureau ("IAB"), and the Captain of the Internal Criminal Investigations Bureau ("ICIB") report to an Executive Officer, who reports to the Sheriff. The Commander of IMPAAC, the Chief of Staff, and the Legal Advisor report directly to the Sheriff in the reorganized Department.

USE OF FORCE

On January 1, 2013, the Department promulgated a new Use of Force Policy and distributed to each Deputy Sheriff and Custody Assistant a comprehensive Use of Force Manual (the "Force Manual") relating to the use and reporting of force by Department personnel. The Department's revised Force Manual was published on July 22, 2013. It is available in electronic form and Department personnel will be notified electronically whenever there is an update or revision of any of the policies, procedures and provisions in the Force Manual.

The Department's Use of Force policy is based upon the standard set by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), and focuses on "the totality of the circumstances presented to Department members *at the time* the force is applied." Manual of Policies & Procedures (the "MPP"), Section 3-10/030.00 (emphasis added).

On August 19, 2013, the California Supreme Court broadened the definition of "unreasonable force" under California law. In *Hayes v. County of San Diego*, 57 Cal. 4th 622 (2013), the Court held that negligence liability under California law "can arise if the tactical conduct and decisions leading up to the use of deadly force show, as part of the totality of circumstances, that the use of deadly force was unreasonable." As explained by the Court, "state

negligence law, which considers the totality of circumstances surrounding any use of deadly force. . .is broader than federal Fourth Amendment law, which tends to focus more narrowly on the moment when deadly force is used[.]”

The Board’s Consultants and I recommended that the Department revise its definition of “unreasonable force” and also the duties of supervisory personnel in reviewing and analyzing force incidents in the MPP in light of the *Hayes* decision. In a follow-up meeting with the Department, the Inspector General, representatives of OIR, and attorneys who represent Department personnel in excessive force cases, there was a consensus that the Department should revise these provisions of the MPP. The Department is now in the process of revising the MPP and will present the revisions to the Sheriff for his final approval.

The Department has now assigned Compliance Lieutenants to each jail (and one to North and South) to analyze inmate grievances about use of force. The Department is now able to track inmate grievances by deputies’ names in the Personnel Performance Index (PPI), and it is in the process of further upgrading the Department’s data tracking system. Finally, the Department has installed two body scanners in the Inmate Reception Center, but has delayed the 90-day pilot program as a result of concerns raised by the deputies’ union.

MANAGEMENT

Sheriff Baca extensively reorganized the management of the Department with four Assistant Sheriffs responsible for overseeing Custody Operations, Patrol Operations, Countywide Services, and Administration & Professional Standards reporting directly to the Sheriff. In addition, he appointed a Chief of Staff and a Chief of a new Internal Investigations Division, who also reported directly to him.

Sheriff Scott has now reorganized the Department so that the four Assistant Sheriffs report to him through the Executive Officer. Under the reorganization, the Chief of Staff, the Legal Advisory Unit, and the Internal Monitoring, Performance Audits and Accountability Command (“IMPAAC”) (formerly the Inspectional Services Command) report directly to the Sheriff, while the Professional Standards Division (which includes IAB), ICIB, and the Sheriff’s Headquarters Bureau report to the Executive Officer.

Following the Commission’s recommendation, Sheriff Baca appointed Terri McDonald as the Assistant Sheriff responsible for the Department’s Custody Operations. She has reorganized the Custody Division into a Custody Services Division – General Population and a Custody Services Division – Specialized Programs under Chiefs who report directly to her and they are actively managing Custody Operations. The four high level managers who directly or indirectly had supervision over the jails during the periods reviewed by the Commission have now all left the Department and there is an entirely new team running Custody Operations.

Sheriff Scott has expanded the scope of IMPAAC to coordinate and provide standardized reports for crime management forums as well as risk management forums. With respect to risk management, IMPAAC will receive information about claims and lawsuits from the Department’s Risk Management Bureau and liaison with designated risk officers in each bureau. The Department has assigned a Commander and a Captain to oversee IMPAAC and it expects to have two lieutenants, 13 sergeants, and four professional staff assigned to the Command by April 13, 2014. The Department is, however, still encountering problems in obtaining classifications from the Chief Executive’s Office for auditor positions that will have the necessary skill sets to audit and inspect the operations of a law enforcement agency. The Department does not believe that the existing classifications adequately encompass the duties of

law enforcement performance auditors or that it will be able to recruit qualified auditors with the salary ranges provided for these classifications. The lack of an appropriate classification has delayed further the extended process that will be required to hire these auditors. The Department also was prepared to award a contract for an Auditor Consultant, but the unsuccessful bidder filed a formal grievance, which is under review by the Internal Services' Department.

CULTURE

Under Sheriff Baca, the Department emphasized respect for and communications with inmates through the Force Prevention Policy, the Education Based Incarceration program, and Town Hall meetings, and Sheriff Scott is committed to continuing the Department's reforms. The Department has enhanced the training of new Custody Division personnel in the principles of the Force Prevention Policy, ethics, and destructive cliques, and the newly created Custody Training & Standards Bureau is now providing an eight hour block of additional force and ethics training to current Custody deputies and Custody Assistants. Under the Dual Track Career Path the Department recently promoted several deputies in Custody to be sergeants in Custody. The dual track list for lieutenant positions is due to come out in the near future.

The Department has also enhanced the penalty guidelines for dishonesty to further address the culture problems identified by the Commission. Finally, each facility has developed a rotation policy taking into consideration its size, configuration, and inmate population.

PERSONNEL AND TRAINING

The newly created Custody Training & Standards Bureau has rolled out an eight hour block of additional force and ethics training for existing Custody personnel. The Bureau also worked with the Mental Health Department to develop a course that has been taught since the beginning of the year for dealing with mentally ill inmates that will be part of the annual 24 hour

block of training for deputies in Custody Operations. In addition to the 24 existing training positions assigned to the Custody Training & Standard Bureau, the Department has now assigned 18 of the 19 newly authorized positions in the bureau, including all of the sworn personnel.

The Department has filled the 42 newly authorized sergeant positions and assigned two additional lieutenants to Custody Operations. With respect to the 47 sergeant positions requested in the next fiscal year, once funding is authorized by the Board, the Department anticipates filling 24 of the positions in July and the remaining 23 positions in December.

The Department has increased the ratio of Custody Assistants to Deputy Sheriffs to achieve the agreed upon 65/35 percent ratio. The Department has concluded, however, that only a limited number of additional positions may be handled by Custody Assistants without impairing the safety and security of the jail facilities.

DISCIPLINE

The Department has revamped its investigative and disciplinary system so that all Administrative Investigations of Category 1 force incidents will be handled by the new Compliance Lieutenants and the Administrative Investigation of Category 2 force incidents in Custody Operations will be handled by the Internal Affairs Bureau (“IAB”). Sheriff Baca created an Internal Investigations Division and appointed a Chief of the Division to oversee both IAB and ICIB and to report directly to him. Sheriff Scott reorganized the Division, which he renamed the Professional Standards Division. IAB remains in the division while ICIB is now a stand alone bureau. The Chief of the Professional Standards Division and the Captain in charge of ICIB both report directly to the Executive Officer. This reorganization is consistent with the Commission’s recommendations, which reflected concerns that investigations by both IAB and

ICIB should be vetted by a senior leader in the Department before being reviewed by the Sheriff and that the then Undersheriff should have no role in the investigative and disciplinary process.

The Department also has enhanced the penalties for dishonesty and excessive force, and the Custody Force Review Committee is rigorously reviewing Use of Force Packages. In addition, the Force Manual has now been revised to clarify the policies with respect to the review of videotaped footage and the separation of deputies involved in force incidents.

The Department has now assigned the a Compliance Lieutenant to each of the facilities (and one to North and South) to conduct Administrative Investigations, and all of the newly authorized positions to the Professional Standards Division, and all of the newly authorized sworn positions to IAB and ICIB.

The Department is working to enhance the inmate grievance process, and has started the pilot program using iPad to electronically track the handling of grievances. The Department is planning to input inmate requests and grievances into the CARTS database from which it will be able to obtain more reliable data and reports about the requests and grievances. The CARTS deployment began at the North facility on November 5, 2013. The complaint module has been installed at all Custody facilities, and the “system is now operational and system acceptance has been accomplished.” Finally, the Department remains on tract to acquire and install additional fixed cameras in lieu of lapel cameras as follows:

Facility	Number of cameras	Installation Completed	Network Online and operational
MCJ	238	August 2014	December 2014
TTCF	96	November 2014	December 2014
IRC	20	December 2014	December 2014
CRDF	491	December 2015	December 2015

LOOKING FORWARD

The Department has assigned most of the personnel authorized by the Board to enhance training, supervision, and the investigations in Custody Operations, although it still needs additional personnel in these areas for which it will need funding in the future. It is still in the process of creating the IMPAAC, but needs to resolve the classification for the auditor positions with the Chief Executive's Office. The Department's implementation of the remaining recommendations and its continued adherence to the Commission's recommendations must be closely monitored by the Inspector General once the Office of Inspector General is fully staffed.