

MOTION BY SUPERVISORS HILDA L. SOLIS

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AND LINDSEY P. HORVATH

Moving Forward with Recommendations and Restrictions on Alcohol

Consumption in the Sheriff’s Department’s Safety of Firearms Policy

In 2019, the Los Angeles County (County) Office of Inspector General (OIG) reported that they “identified and reviewed 81 administrative cases charging [Los Angeles County Sheriff’s Department’s (LASD)] deputies various policy violations for being under the influence of alcohol with a firearm in reach.” Just recently, in their on [Reform and Oversight Efforts](#) published in November and covering the third quarter of 2023 Quarterly , OIG identified an additional 8 incidents involving LASD deputies and alcohol while in the possession of a firearm. And even more recently, [news reports](#) highlighted an incident involving alleged members of a deputy gang which involved a deputy who had been drinking flashing a handgun when in a dispute with teenagers outside of a bowling alley.

Many of the incidents referenced in these reports were very dangerous in nature including: firing their weapon negligently, firing “warning shots” at youth, displaying the

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firearm to threaten others, physical fights while possessing a firearm, driving on the wrong side of the road, losing their firearms, possessing their firearm off-duty without having qualified to do so, and other deeply concerning behavior.

Following OIG's 2019 assessment, OIG outlined three areas of concern with the current LASD policy:

1. "The .08 blood alcohol content (BAC) standard is too low and inconsistent with the .02 BAC limits set by Department policies for being under the influence of an alcoholic beverage when on-duty and for operating a County vehicle.
2. Setting the .08 BAC threshold as a rebuttable presumption that the deputy did not exercise reasonable care, rather than a clear limit, may result in increased danger to the public and to deputies. Under this rebuttable presumption, the Sheriff's Department may deem a deputy too impaired to legally operate a motor vehicle nonetheless able to exercise reasonable care in the control of a firearm and life-and-death decisions about its use.
3. The Sheriff's Department's "Off-Deputy Incidents" policy states that 'Deputy personnel, although technically off-duty, shall take action as deemed appropriate on any police matter coming to their attention.' But imposing a duty on deputies to act while off duty may make deputies more likely to carry firearms, even when consuming alcohol that would make the use of the firearms risky."

These concerns highlight the risks due to the written policy's reference to potentially allowable BAC levels that are associated with ***significant levels*** of impairment.

According to the [National Highway Traffic Safety Administration](#) (NHTSA) the typical effects for a person with a .02 BAC are some loss of judgment, relaxation and altered mood, decline in visual functions, including rapid tracking of a moving target and a decline in the ability to perform two tasks at the same time. As a person's BAC rises, the effects become more pronounced such that the typical effects with a BAC level of .08 are poor muscle coordination, including effects on vision, reaction time and balance, the ability to detect danger, impairment of reasoning, perception, and self-control.

In evaluating these concerns, OIG evaluated and identified several other law enforcement agencies stringent, but creative, policies designed to prevent the types of incidents identified in their reports. These include the Albuquerque Police Department which has a zero tolerance policy indicating “[p]ersonnel will not use intoxicating beverages while off-duty if carrying a firearm”; San Francisco Police Department which provides “while armed and carrying a weapon, shall not consume alcoholic beverages or be impaired,” which is paired with language indicating impairment at a blood alcohol content (BAC) of .015; and, the Minneapolis Police Department, which provides that off-duty employees will be considered under the influence of alcohol if they have a BAC of .02 or higher. These departments, and no doubt others, have concluded that the serious consequences that can result from the mix of alcohol and firearms merit more restrictive policies, even when officers are off-duty.

Additionally, the 2019 report also provided six recommendations to “reduce incidents where deputies, who are suspected of being under the influence of alcohol, possess a firearm”, which are:

1. The standard of .08 blood alcohol concentration (BAC) limit that triggers a

presumption of reasonable off-duty action as stated in the current Safety of Firearms policy is too high. The blood alcohol concentration limit in the Safety of Firearms policy should be lowered to the .02 BAC standard used in Department policies for being under the influence of an alcoholic beverage when on-duty and for operating a county vehicle.

2. The Safety of Firearms policy should include a strict prohibition against carrying firearms while consuming alcohol in establishments that serve alcohol.
3. The rebuttable presumption language in the Safety of Firearms policy should be removed. The rebuttable presumption language undermines the intent of the policy and creates ambiguity in the interpretation and application of this policy.
4. The Safety of Firearms policy should include an emergency exception that allows a deputy, who has consumed alcohol, to arm himself or herself in emergency situations that require quick action to protect human life.
5. Language similar to MPP 3-01/090.10 Operations of Vehicles should be added to the Safety of Firearms policy. That policy section states that if a Department member has an odor of alcoholic beverage or there is a reasonable suspicion to believe the member is under the influence of alcohol, the unit commander or higher shall order a test of the member. If the Department member refuses a direct order to be tested, the member shall be subject to discipline.
6. The Firearms Safety policy should mandate alcohol testing for all off-duty

accidental discharges. There have been instances where deputies had accidental discharges of their firearms while off-duty either at home or in social settings. Because there is no policy requiring alcohol testing in accidental discharge scenarios, we are left to wonder if alcohol was a factor.”

As discussed, and emphasized by the Board at the January 9, 2024 Board meeting, this issue is incredibly important and needs immediate attention and resolution. It was disappointing to learn that despite the recommendations being introduced in 2019, LASD has not, per OIG and LASD representatives, acted on any of the six recommendations.

While LASD has indicated that they are reviewing best practices, the tremendous risk of significant negative outcomes when alcohol and firearms are mixed requires that these policies be revised and updated as soon as possible. Moreover, these risks, and the history of LASD officers identified by OIG, also make clear that the resulting policies need to give LASD staff clear, unmistakable, guidelines that make it easy for them to understand when they should, or shouldn't, carry weapons off-duty. The importance of these policies is only made clearer by changes in law that have made legal substances such as marijuana that were previously not, as well as the prevalence of prescription medications, and any number of other products, that while widely available, can produce intoxication depending on how they are consumed.

WE, THEREFORE, MOVE that the Board of Supervisors:

1. Request that the Sheriff, and direct that the Inspector General, work in collaboration to adopt revisions designed to improve the Sheriff's Department's Firearm Safety policy and reduce the risk of negative outcomes

involving the dangerous mix of alcohol and firearms.

2. Request that the Sheriff:

- a. Revise the Safety of Firearms policy to remove the rebuttable presumption language.
- b. Revise the Safety of Firearms policy to include a strict prohibition against carrying firearms while consuming alcohol, on or off-duty.
- c. Revise the Safety of Firearms policy to add language similar to MPP 3-01/090.10 indicating that “if a member has an odor of alcoholic beverage or there is a reasonable suspicion to believe [the] member is under the influence of alcohol the unit commander or higher shall order test of the member. If the member refuses any order to be tested the member shall be subject to discipline.”
- d. Revise the Safety of Firearms policy to mandate alcohol testing for all off-duty accidental discharges.

WE, FURTHER, MOVE that the Board of Supervisors:

- 3. Direct County Counsel and OIG, in collaboration with LASD, to also include policies to clearly restrict the use of or being under any influence of alcohol when on-duty.
- 4. Request that LASD provide the Board of Supervisors with a report back, in writing, within 90 days regarding whether they have agreed to adopt any of the requests contained in Directive 1, and if not, why they are choosing not to adopt any such recommendations.
- 5. Request that LASD provide the Board of Supervisors with a report back, in

writing, within 90 days regarding LASD's policies designed to provide the same, or similar, guidance related to other legal, or illegal, substances that may lead to intoxication or impaired judgment, including marijuana, prescription medication and other drugs.

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