



CCJV Discipline Team Findings

Citizens' Commission on Jail
Violence

September 7, 2012




Kendall Brill Klieger

ReedSmith



UCLA SCHOOL OF LAW

Proskauer >



1. There is Substantial Evidence of Failures in Reporting, Investigating and Disciplining Use of Force in the Jails

- Lt. McCorkle's review of 154 use of force packages from MCJ.
 - Force packages did not address possible policy violations and deputies' reports were dramatized and canned.
- Capt. Johnson's review of seven use of force packages from MCJ
 - Sergeants did not adequately investigate inmate injuries.
- Lt. Bornman's assignment with MCJ Special Projects
 - Approximately 100 use of force reports not acted upon, dating back to 2005.

2. The Department's Process for Reviewing and Investigating Force Incidents Is Not Effective

- Less Significant Force
 - Review by supervising Sergeant
 - Sergeant's force packet evaluated by Unit Commander
- Significant Force
 - Review by supervising Sergeant or Custody Force Response Team
 - Force packet evaluated by Custody Force Review Committee
- Most Significant Force
 - Review by Internal Affairs
 - Force packet evaluated by Executive Force Review Committee




3. The Investigative Process Often Takes Too Long to Complete

- Statute of limitation requires discipline to be imposed within one-year of reporting.
- The Department does not have a clear timeline for how a force review should proceed.
- Though policy requires an administrative investigation within 90 days, in practice many investigations take almost a year to complete.
- Criminal investigations into deputy misconduct further delays disciplinary investigations.
- Delays cause less accurate reporting, deputy collaboration, and exceeding the statute of limitation.




4.- There Are Multiple Deficiencies in LASD's Investigatory Process

- Reviews of less significant force often don't include interviews of key witnesses.
- Deputies' immediate supervisors conduct force review, even if they directed or supervised the force.
- Subject deputies are permitted to be present during interviews of witnesses.
- The actions of supervisors are not reviewed as part of a force review.
- Deputies are permitted to discuss the force incident before providing their statements.



5. The Department's Unit Level Investigations of Less Significant Force Are Not Always Rigorous or Thorough

- Unit-level investigations are performed by custody sergeants.
- Custody Sergeants lack proficiency in conducting investigations compared to Internal Affairs officers.
- Unit-level investigations are often incomplete, poorly documented, and less rigorous.
- Mistakes in unit-level investigations can result in a failure to collect evidence necessary to level disciplinary charges.



6. The Miniscule Number of Unreasonable Force Findings Casts Doubt on the Integrity of the Investigatory Process

- Between 2006 and 2011, there were 5,630 force incidents reported in custody.
- Of those, only 36 were found to be unreasonable. This is only about 0.6%.
- During this same time period, only six deputies were discharged for unreasonable force.

7. The Discipline Appeal Procedure Undermines the Effectiveness of the Discipline System

- Deputies can appeal disciplinary decisions to either the Los Angeles County Employees' Relations Committee or the Civil Services Commission.
- The appeal process can drag out for years.
- ERCOM may not be staffed with qualified and unbiased hearing officers, resulting in a perception that the Department will not succeed in defending a disciplinary decision that goes before ERCOM.

8. The Inmate Grievance Procedure Is Inadequate

- Inmates report that they are discouraged from filing grievances by threats of retaliation.
- Even when grievances are filed and are founded, inmates are not informed of the results of the investigation.
- Inmate grievances are not tracked in the Department's Personnel Performance Index. And non-force grievances are not tracked in any Department data system. These failures inhibit the Department's ability to detect potential "problem deputies" early.



9. False Statements About Use of Force Are Not Adequately Acted Upon

- The Department reported to the Commission that there were only two deputies in the past five years who were found to have provided false statements in regard to force reports.
- The Department does not have a zero-tolerance approach to dishonesty in force reviews and investigations.
- Cases the Commission learned of revealed extremely light treatment of acts of dishonesty, a protracted time for resolution and imposition of discipline, and a failure to find policy manual violations reflective of the misconduct at issue.

10. Disciplinary Guidelines for Use of Force and Dishonesty Are Too Broad and Too Lenient

- The Department's Discipline Guidelines provide little guidance on the consequences for unreasonable use of force or for dishonesty.
 - The range of discipline for unreasonable force extends from a five-day suspension to discharge.
 - The range of discipline for dishonesty extends from a ten-day suspension to discharge, and in some instances the Department's penalties were below that range.
 - The range of discipline for failure to report use of force extends from a five-day suspension to a 25-day suspension.

11. Leadership in the Department Has Undermined the Disciplinary Process

- The Undersheriff has made statements undermining the Department's disciplinary system and Internal Affairs.
- A Former MCJ Captain discouraged thorough investigation into deputy misconduct and failed to ensure timely force reviews.