



Stephen J. Connolly
Executive Director

TO: Board of Supervisors
FROM: Stephen J. Connolly
DATE: Friday, January 31, 2014
RE: OIR Activity Report

I. Discipline Process: Cases and Trends

The Sheriff's Department initiated only 130 new Internal Affairs cases in 2013, a dramatic reduction from a peak in 2009 of nearly 400 investigations. This continues a trend; each successive year since 2009 has seen a decrease in the number of new formal misconduct investigations.

It is true that a portion of this change is "form over substance," in that it reflects a new approach to categorization, and new screening procedures. The Decentralized Discipline process, begun in 2011, authorizes each unit to evaluate the legitimacy and seriousness of many complaints at the point of initial intake. While there were nearly 100 citizen complaints recorded in 2013, only 28 of them were forwarded to Internal Affairs after the initial assessment and evidentiary review.¹ All would have "counted" in 2009.

Nonetheless, the lower current totals are also attributable to substantial reductions in new misconduct allegations across several significant categories. These include citizen complaints, off-duty misconduct, and allegations of excessive force. Though many of last year's cases involved serious infractions that resulted in administrative leave and/or dismissal for involved employees, the Department appears to be making progress in establishing and enforcing expectations that reduce complaints.

A further breakdown of 2013's new cases includes the following specific information:

- 8 cases resulted in referrals for criminal investigation.
- 17 of the cases related to off-duty misconduct.

¹ OIR monitors the complaint process and consults with the Department about referrals to Internal Affairs after the initial evaluation of allegations.

- More than half of cases (67) involved personnel from the Patrol Operations Division, with the next highest total coming from Custody Operations at 38.

OIR monitors the progress of each investigation from beginning to end, and makes recommendations to the Department regarding final outcomes. Among the cases OIR has monitored in recent months are the following:

- *A deputy called for backup after detaining two men. Though the deputy was responding to a call for service, his legal basis for an extended detention and search of the men was questionable. Additionally, the verbal interactions between the backup deputy and one of the individuals deteriorated into unprofessionalism. Eventually, a use of force occurred with one of the detained parties. While the force was itself not out of policy, based on the subject's resistance, the Department investigated the entire stop and found that both deputies had fallen short of expectations in their handling of the event. OIR concurred with the suspension and training that was accordingly recommended.*
- *Two deputies got in a dispute at their workplace that required a supervisor's intervention. The subsequent investigation established that one of the deputies, who apparently resented the work habits of the other, contacted a dispatcher and arranged for a fake call for service that would require the second deputy's response. This led to suspensions for both the dispatcher and the responsible deputy.*
- *A female jail deputy allegedly became involved in an inappropriate personal relationship with a female inmate. In the midst of the subsequent investigation, which provided some corroboration in the form of witness statements and other evidence, the female – who was in still in her probationary period as a first-year officer – was released from employment.*
- *While off-duty, a supervisor allegedly entered the home of his former girlfriend when she was not there – and without permission. The incident occurred in a city patrolled by the Department, which handled the criminal investigation and has turned it over to the District Attorney's Office. Meanwhile, the Department placed the supervisor on administrative leave pending the outcome of the case.*
- *An off-duty deputy allegedly walked away from the scene after a single-car collision in which she was the driver. Meanwhile, an on-duty deputy heard about the accident – which occurred in another county – and took his patrol car to respond. He is alleged to have interfered with the investigation as it was being handled by an outside agency. Both the*

driver and the responder are on administrative leave pending the outcome of the criminal review.

- *A male deputy allegedly developed a dating relationship with a female whom he met while she was serving time on a jail work crew. Though her sentence was complete, the relationship nonetheless violated the Department's Fraternalization policy, which limits permissible contact with inmates and those who were recently incarcerated. Other related policy violations came to light in the context of the Internal Affairs investigation. OIR has reviewed the case file and recommended discharge; the final outcome is pending.*

OIR also plays an active role in following the complaint process and ensuring that the unit-level assessments are thorough and fair in addressing the various issues raised by complainants. 53 citizen complaints were lodged in the final six months of 2013. (These do not include inmate complaints, which are tracked separately.) OIR's recent collective review noted the following:

- 7 of the cases came from John Wayne Airport, and revolved around citations; most of these related to unfairness and/or discourtesy on the part of the issuing officer. Interestingly, no officer generated more than one complaint, which is a factor tracked by the system in order to evaluate potential patterns of behavior.
- 3 of the cases involved allegations of excessive force. The Department's Use of Force review protocol assessed each incident, including review of available documentation and audio/video evidence, and found that the force was in-policy.
- 3 of the cases included an element of racial profiling, though none were substantiated.
- The court system generated 6 complaints; the review process was noteworthy in terms of effective, thorough investigations and productive follow-up communication with complainants.

In several of the complaints, the Department identified conductor procedural issues that – while not rising to the level of a policy violation – did lead to training or counseling to improve performance – a sign of the Department's willingness to recognize the benefits of incremental corrective action rather than taking an “all or nothing” approach to discipline. Examples included the following:

- *A court deputy offended the sister of an inmate by allegedly verbally abusing a group of inmates in a courtroom detention area. The deputy denied some of the specific allegations, but did acknowledge telling the inmates to “shut up” in a way that*

suggested a lack of professionalism. He was counseled and received “tactical communication” training.

- *A female arrestee complained about being searched inappropriately by a male deputy; while the deputy was accompanied by a female training officer and apparently followed approved techniques in conducting the search, the reviewing sergeant advised taking advantage of the mobile video technology and conducting similar searches “on camera” in the future for risk management purposes.*

II. Safe-Driving Initiative

In the second half of last year, OCSD devoted considerable attention to addressing driving-related negligence or misconduct among deputy personnel. This followed a small but troubling spike in the number of collisions that resulted in extensive property damage and/or injuries to deputies or civilians. One deputy, for example, was seriously injured after losing control and being ejected from his vehicle in the early morning hours of his patrol shift; in another case, a deputy hit another car in an intersection in his haste to respond to a call for service, and both he and the other driver were hurt.

The Department took several steps toward addressing this problem. The most direct was to step up the discipline process with regard to preventable accidents. Each quarter, the “Traffic Collision Review Board” formally evaluates each accident, and refers many of them to Internal Affairs for further processing. Deputies routinely receive low-level discipline for their second preventable collision within a designated time period. This is true even if the significance of the accident was minimal (e.g., an unsafe backing accident that occurs in a parking lot at low speed). Additionally, even a first accident can lead to discipline if there are sufficient “aggravators” (such as excessive speed, or multiple mistakes within the same episode) that raise the event to the level of a policy violation.

The Traffic Collision Review Board, in conjunction with the Department’s SAFE Division (which oversees various internal review mechanisms), also looks at collective data for purposes of trend analysis. This process helps identify causal factors that might productively be addressed with adjustments to training or equipment

The Department is also taking advantage of GPS technology that allows radio car speeds to be remotely tracked and documented. OIR recently had the opportunity to evaluate the technology at the Department’s Communications Center, where the shift commander has “real time” computer access to the activities of all patrolling personnel. The system creates alerts when certain speed thresholds are reached, and allows the Department Commander to intervene as needed. The effects of these capabilities, and

accompanying education initiatives, have been easy to see: individual instances of extreme speed have been greatly reduced in the months since the program first began.

Reinforcing these approaches is an educational emphasis and a “public relations” campaign to heighten officer awareness of, and attention to, basic safety principles. For example, many deputies who were involved in accidents turned out not to be wearing seat belts at the time. That trend is reversing.

III. Inmate Death

In late November, an inmate named Itzcoatl Ocampo committed suicide in his one-man cell. The details of the investigation (including the toxicology report) are still pending, but it is believed he ingested some type of cleaning agent that he had acquired through normal jail protocols. A deputy observed him in medical distress, and he was ultimately transported to the hospital, where he died the next day.

As with any in-custody death, the District Attorney’s Office has taken the lead role in the formal investigation into the incident and related circumstances. This case attracted significant media attention at the time it occurred, primarily because of the high-profile nature of the inmate’s charges. Ocampo had been in custody for nearly two years, and was awaiting trial in connection with six murder allegations. His sudden death was frustrating to some friends and family members of the victims, who wanted to see the judicial process through to conclusion. It also prompted strongly critical comments from the inmate’s defense counsel, who blamed the Sheriff’s Department for its failure to prevent the apparent suicide.

The Department recently completed its Critical Incident Review (“CIR”) of the incident. Various topics emerged, including the inmate’s history in custody, the appropriateness of his housing assignment, the protocols used by the Department for cleaning of inmate cells, the response to Ocampo’s medical emergency, and the Department’s interactions with grieving family members at the hospital prior to Ocampo’s death. (Their desire for contact with their relative was in tension with the security and evidence-preservation protocols that attending deputies were expected to follow.)

Representatives from the County’s Health Care Agency – which provides medical and mental health services for inmates in Orange County custody facilities – also attended the CIR and worked with Department representatives on re-tracing the history of care. This collaboration has greatly improved in recent years; the two entities communicate regularly on issues of shared responsibility, and have improved efficiency by addressing issues cooperatively, and as they arise.

Assuming that inmate Ocampo’s death is in fact determined to be a suicide (the pathologist’s findings are pending), it will have been the first in the Orange County Jail system since 2010. Overall inmate deaths have also been significantly reduced on an annual basis, compared to the recent peak of 11 deaths in 2010. This is in spite of the

fact that the jail population has grown somewhat dramatically as a consequence of the state prison realignment in 2011.² Moreover, Orange County's statistics compare favorably to those of all other southern California jurisdictions in this regard.

After Ocampo's death in November, questions arose in the media as to why the inmate had access to cleaning supplies that could possibly be consumed. The practice is not a new one: issues of hygiene and possible infection from bacteria make regularly cleaning opportunities a priority inside the jails. Department personnel monitor the distribution and collection of supplies to individual inmates in an effort to prevent misuse of any kind.³ Nor was there a documented record of a previous suicide by that means in the Orange County jails. Nonetheless, OCSD is exploring options for other types of cleanser that might be less toxic while remaining effective.

While the initial review has not indicated any evidence of misconduct or failure to follow protocols, the death of the inmate Ocampo was appropriately a source of concern. It has also provided an opportunity for the Department to evaluate its practices going forward.

IV. Inmate Complaints: A New Approach

OIR receives regular contacts from inmates, or family members of inmates, who have concerns or complaints about their treatment in jail. OIR works to facilitate communication with the Department (or with Correctional Medical staff, depending on the issue), and proper investigation of any problems that involve allegations of improper force or other misconduct.

In recent years, a significant percentage of the complaints came from a specific subset of inmates: the post-sentence civil detainees who are in custody while their status as "Sexually Violent Predators" ("SVP's") is adjudicated in the courts system. These inmates are legally entitled to a greater range of rights and privileges, given that they are not being punished for a crime. However, these entitlements must occur within the parameters of the jail's legitimate operational and security concerns – a dynamic that leads to considerable friction.

The Department has taken several steps to ensure that the rights of the civil detainees are observed, and has consulted with OIR, County Counsel, and the District Attorney's Office to refine its practices in this arena. In June of 2013, the Department took another practical step in the direction of problem-solving: it assigned a sergeant at the Central Jails Complex to serve as the coordinator for handling concerns of both the civil detainees and the "pro per" inmates. (These individuals are representing themselves in court, and have a range of rights that are intended to facilitate this process.) OIR is in

² System-wide, the Department's "average daily inmate population" rose from approximately 5000 in 2010 to nearly 7000 throughout 2013.

³ Ocampo was housed in a single-man cell, which has different cleaning protocols than the larger, barracks-style housing unit that are also common in Orange County jails.

regular contact with the sergeant, and believes that his involvement has been extremely effective.

Though there are currently only 34 pro per inmates, and 20 SVP detainees, they generate a significant percentage of the grievances and administrative concerns for the Central Jail Complex. The new sergeant has provided clarity, consistency, and focus in the way these issues are resolved. He has had some 400 direct contacts with these inmates to explain rules and resolve disagreements. OIR has successfully referred several matters to him and receives regular updates on the Department's approach to persistent questions and legal challenges.

While the new position has not completely eliminated disputes, the sergeant's diligence and effectiveness have made a difference in the Department's dealings with these "high maintenance" inmates. It is a progressive approach that has positive implications for risk management as well as orderly operations in the jail.

Meanwhile, OIR continues to monitor the Department's new grievance database for inmate complaints. New protocols and technology help ensure that grievances are recorded and processed efficiently, and it makes supervisors accountable for individual outcomes. Additionally, grievances that relate to issues of alleged staff misconduct go through higher levels of screening and review. These steps should help the executive management maintain a useful sense of trends and problem areas in terms of the security and safety of the inmate population.

V. Deputy-Involved Shootings: Updates

The Department finished 2013 with a total of three officer-involved shootings. The first one occurred in February in the context of a vehicle-pursuit that began in Stanton. A deputy fired one round in response to the suspect's swerving to initiate a sideswipe collision with the pursuing radio car. The suspect received a graze wound on his arm but continued driving until the same deputy performed a maneuver to spin the suspect's car and bring it to a stop. Several deputies took the suspect into custody, and he was treated for his injuries.

The second shooting was in August in the city of Yorba Linda. It began with a investigative traffic stop, and arose as the suspect attempted to drive away as the deputy stood by the driver's side door. The deputy fired one round; the suspect was wounded but nonetheless managed to drive away. He led deputies on a pursuit that reached a nearby freeway. The driver was involved in multiple traffic collisions with civilian vehicles before pulling over and surrendering. He was treated for his injuries and survived.

The final incident of the year took place in September, and began with a violent knife attack by a male suspect against his roommate and visiting mother. Two deputies responded in separate vehicles, and the suspect charged and then stabbed one of the

deputies as soon as he got out of his radio car. The deputy was seriously injured in the attack. The second deputy took immediate action to intervene, and ended up firing multiple rounds at the suspect, killing him.

OIR responded to the scene of all three incidents, and has monitored the subsequent Departmental review processes. The formal criminal review, as conducted by the District Attorney's Office, is still pending in all three cases. Criminal charges against the suspects were filed in both the Stanton and the Yorba Linda cases; both defendants have preliminary hearings scheduled for March of this year. As for the OCSD administrative review process, the cases have gone through the Critical Incident Review Board process for evaluation of relevant tactics, policies, procedures, and training. Once the District Attorney issues a letter of opinion regarding the legality of the involved deputies' use of deadly force, the Department will move forward with an administrative assessment of individual officer performance.

VI. Conclusion

Thank you for your attention to this memorandum. Please feel free to contact me at your convenience regarding these contents or other matters related to my responsibilities.

Best regards,

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