

Seventh Office of Independent Review **Annual Report**



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Education-Based Discipline Initiative

In 2008, the Sheriff launched a project to create an alternative to the traditional disciplinary system that relies in large part on unpaid suspensions handed down as punishment for policy violations. The new system is dubbed "Education Based Discipline" ("EBD") and, after a year of hard work by committed personnel, is slated for implementation in early 2009. The concept is rooted in the Sheriff's belief that the traditional "days off" discipline may unfairly burden an employee's family and is too mechanical, in that it does not require the Department to engage with the employee in a way that will remediate the employee and reduce the likelihood that the policy violations will reoccur. Under the new plan, most disciplined employees will have a choice between taking days off or completing an education-based plan, pursuant to which the employee may take classes, conduct briefings, and/or write letters of apology as a way of compensating for his or her violations of policy and improving his or her future behavior.

OIR has been involved in the development of the Education Based Discipline system from the beginning. Interestingly, although the Education Based Discipline initiative brings some innovation to the disciplinary process, it will not be introducing something entirely new to the Department. There have always been innovative captains who, as part of a settlement agreement worked out with an employee, would come up with a creative alternative to traditional discipline. OIR monitored a few such cases this past year. The goal of Education Based Discipline is to regularize this practice by providing concrete options from which all captains can choose to create an individual remedial plan for each disciplined employee. In addition, all Department members who opt for EBD will attend a "LIFE" class (Lieutenants Interactive Forum for Education) facilitated by a cadre of lieutenants and intended to provide a refresher to employees on leadership and core ethical values of the organization.

The following summaries of cases are examples of how the Department has devised better-tailored alternative measures to addressing employee misconduct.

C a s e

An experienced deputy submitted to the court an affidavit for a search warrant that contained inaccurate information. The District Attorney's office noticed the inaccurate statements and consequently rejected the case against the suspects who had been searched and from whom narcotics had been seized. After a thorough investigation by IAB, the unit commander determined, with OIR's concurrence, that the deputy's inaccurate statements were not intentional or malicious but were the result of sloppy, rushed work. Indeed, the deputy unquestionably had probable cause to perform the search, but took a short cut in the way he articulated it in his affidavit. The deputy took responsibility for his errors and, in fact, brought the issue to the attention of his captain, who might not otherwise have learned about it.

In consultation with OIR, the unit commander imposed a substantial suspension on the deputy, but offered to hold it abeyance (spared having to serve days off without pay) if the deputy would conduct briefings on the probable cause issue in question in the case. The deputy is one of a few subject matter experts in the Department on this particular issue, and readily agreed to the unit commander's settlement proposal. Under the agreement, the deputy will write a Field Operations Training Bulletin to be distributed Department-wide and will travel to two stations to personally conduct briefings and advise his peers on the need for accuracy in police reports and of the potential consequences if reports are not accurate.

C a s e

A custody assistant was arrested for alcohol-related disorderly behavior in a neighboring state. During the arrest, the custody assistant was uncooperative, belligerent and disrespectful to the arresting officers. After the incident, the custody assistant was apologetic about his conduct and took responsibility for his actions. As part of a pre-disposition settlement agreement and at OIR's suggestion, the custody assistant received a lesser suspension than he would otherwise have been afforded. In exchange, the custody assistant agreed to write a letter of apology to the arresting officers. As we have stated before, the letter of apology is an underused remedial measure that demonstrates acceptance of responsibility and communicates to those who were most affected by the boorish behavior that the offender has truly atoned for his actions.

C a s e

Two deputies violated Department policy by failing to make the required radio broadcast of a foot pursuit and separating from each other during the chase. They were each given a small

suspension, but at OIR's suggestion, the Executive Force Review Committee gave the unit commander the authority to hold days in abeyance if the deputies would agree to do a briefing to the unit in which they described the incident for which they were disciplined and then discussed the foot pursuit and "partner-splitting" policies. It was also an opportunity for the deputies to export their experience to their peers as personal "lessons learned" and to discuss tactics, decision-making and the importance of officer safety.

OIR supports LASD's efforts to make the disciplinary process more constructive and meaningful and we are excited about our continued work with the Department as it implements the new system. Successfully implemented, EBD could immeasurably change the landscape of the Department's disciplinary process with closely tailored remedial alternatives that ensure individual accountability and address the root cause of the behavior leading to the violations of policy.