Office of the Independent Monitor

Annual Report

Los Angeles County Probation Department

April 2016

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FOREWORD

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Our Annual Report marks the sixth year the Office of the Independent Monitor ("OIM") (formerly, the Office of Independent Review) has performed independent oversight of the Los Angeles County Probation Department.

This Report has four main sections, beginning with a discussion of the Probation Department's specialized armed personnel: AB-109 unit, Special Enforcement Operations Unit and Internal Affairs investigators called the Special Projects Team. As the Department moved to expand its armed personnel from a handful to almost one hundred, OIM assisted in revising its use of deadly force policies and prompted it to create a specialized mental health training that aims to better prepare field officers in their interactions with clients that may suffer from mental illness. This section is followed by a discussion of on-duty and off-duty employee misconduct and discharge cases. OIM closely monitors allegations of misconduct by Probation personnel to ensure that the investigations are conducted in a thorough, fair, and effective manner. OIM also ensures that discipline meted out for proven misconduct is prompt, consistent and fair.

In addition to OIM's oversight role of reviewing internal affairs investigations, OIM continues to identify areas where policy reform is needed. To that end, Part Three includes a discussion of OIM's effort to revise the Department's Critical Incident Review policy and proposal to create a new policy that addresses conflicts (relationships) that can arise between a manager/supervisor and a subordinate. This report also includes two audits OIM conducted in 2015; one is an audit of juvenile escapes that occurred from the halls and camps in 2012, 2013, and 2014; the other is a review of Petitions for Writ of Administrative Mandamus" ("writ cases") filed in the last couple of years (either by the employee or the Department) and a discussion of the outcomes.

Part One

SPECIALIZED ARMED UNITS

The enactment of AB 109 impacted the Probation Department in several important ways. Its passage necessitated the creation of a new specialized unit and required increased training and resources. Because the "new" clients (probationers) were potentially more sophisticated and dangerous, the Department increased its armed personnel from a handful to almost one hundred. To adequately prepare for a potential on-duty shooting, the Department also created a special team of investigators responsible for handling the administrative investigations resulting from a use of deadly force.

AB-109

In April 2011, the California State Legislature and Governor Jerry Brown signed Assembly Bill 109, commonly referred to as "prison realignment." The California Public Safety Realignment Act of 2011 shifted supervision for certain felons from the state to the counties. The Realignment Act gave to counties both the responsibility for monitoring, tracking, and incarcerating lower-level offenders previously bound for state prison and the responsibility to supervise a certain class of felons released from prison:[1] those "non-serious, non-violent, non-sex" offenders ("non-, non-, non-s" as many within the Department say).

[1] For instance, county probation offices must now handle all drug and property crime sentences.

Three major groups of offenders are affected by Realignment. First, felony offenders who were *never* convicted of a "serious" or "violent" crime or an aggravated white collar crime and are not required to register as sex offenders will now serve their sentences in local jails (for up to three years). Upon release, these offenders are followed under the mandatory supervision provisions of the bill. The Department groups these offenders under the AB-109 mandate.

Second, released prisoners whose *current* commitment offense qualifies them as "triple-non" offenders are diverted to the supervision of county probation departments under "Post Release Community Supervision (PRCS)." These are the prisoners who were fast-tracked for release, released to their counties of origin, and who are now supervised by the AB-109 unit of the local Probation Department. They are supervised by the Department for twelve months. If they comply with all of the terms and conditions of their probation, terms and conditions that can be modified by the Department on its own initiative, then they are released from supervision after those twelve months. If, however, they violate probation and are flash incarcerated[2] or arrested for the commission of a new crime, then the twelve-month clock starts all over again when they are released from county jail, up to a maximum of thirty-six months. The twelve-month clock can be tolled if the probationer is unable to report for some time (goes out-of-state, becomes homeless, is re-arrested and held in county jail, e.g.).

Third, persons on PRCS who violate the technical conditions of their supervision (rather than committing a new crime), can no longer be returned to state prison but must be sanctioned in

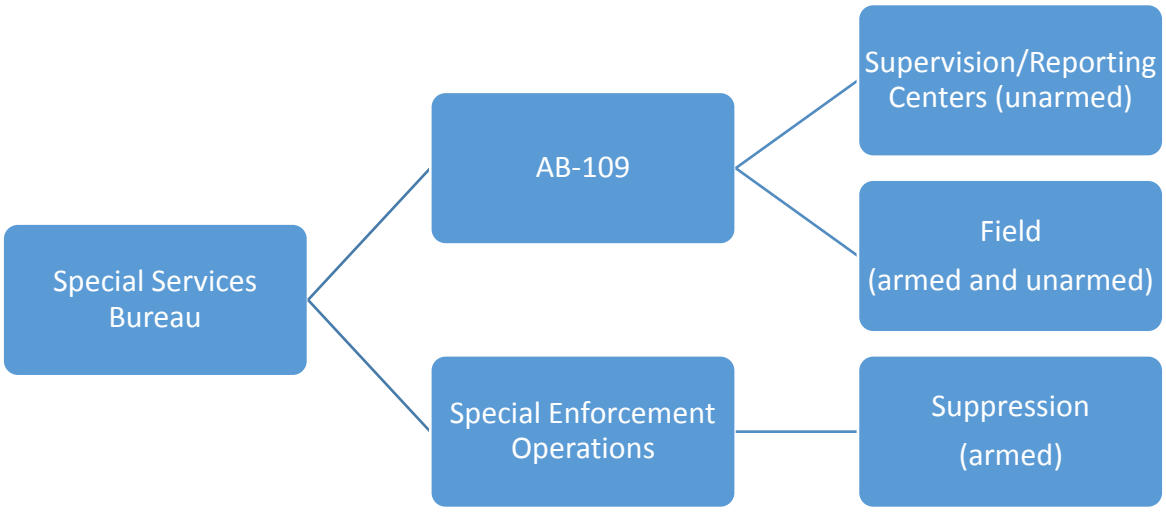
[2] A flash incarceration is a custodial commitment of a supervised person for up to ten days at a time. Under the Penal Code sections that relate to AB-109 supervision, the Probation Department holds the authority to flash incarcerate—without the need to have a hearing in front of a judge. The Department also has the right to amend the conditions of release and better tailor those conditions to the needs and capabilities of the supervised person. However, those persons who are under mandatory supervision are governed by the terms and conditions set by the sentencing judge. The Department cannot flash incarcerate nor amend the probationary terms and conditions without judicial approval. At the inception of AB-109, the Los Angeles County Probation Department decided that it would flash incarcerate a probationer only when the supervised person failed to make an initial appearance before their probation case manager. However, this resulted in a large number of incarcerations and left probation officers without recourse during the normal probationary period to impose custody time when all other sanctions had been exhausted. So the policy was amended and a matrix was developed. Currently, probation officers can flash incarcerate for a range of non-compliance "offenses" and for a range of days that reflect the seriousness of the non-compliance.

local (county) jail or community alternatives, including house arrest, drug treatment, or flash incarceration.[3]

AB-109 was drafted in response to a U.S. Supreme Court decision, *Brown v. Plata,* which ordered the state to reduce its prison population by 25% within two years. Governor Brown signed the bill and simultaneously decreed the provision of state funding to counties to deal with the increased number of offenders soon to be under their supervision. Along with the funding came the freedom to develop a custodial and post-custody release plan. The funding was offered to counties generally, not probation departments specifically, so there was an initial scramble for the money while the Boards of Supervisors decided what to do.

In the end, the Los Angeles County Board of Supervisors, like many other Boards within the state, gave the authority to the Probation Department to place the parolees on their caseloads. In so doing, the Board recognized that rehabilitation was a strong aim of the new model of supervision—not merely law enforcement. In response to the Board decision, the Department created the AB-109 unit, and organizationally placed it under the umbrella of the Special Services Bureau. The Department decided that the unit would be staffed with experienced deputy probation officers, that is, Deputy Probation Officers IIs or higher; for many of those recruited to the unit, the new assignment meant a promotion. They were to occupy newly-leased office space. Perhaps for all of these reasons: new promotions, new unit, new offices, OIM has noticed that AB-109 staff takes visible pride in their mission. Of the new four hundred (400) AB 109 staff positions created, it was intended that fifty-five (55) of those employees be authorized to carry a Department-issued weapon. The remaining staff, like the majority of sworn Department employees, were to remain unarmed. Currently, twenty-one (21) staff assigned to AB-109 are armed with plans to expand to fifty-five (55) in the near future. The organizational chart of the AB-109 unit can be envisioned as follows:

[3] https://www.law.stanford.edu/organizations/programs-and-centers/stanford-criminal-justice-center-scjc/california-realignment



Training

The Department calls itself a "learning organization" and recognizes the role that research plays in driving policy development, which in turn drives professional development (i.e. training). The Staff Training Unit is a well-established training program of both core and annual training. The core training is offered both to new recruits and to newly-promoted employees. It consists of four weeks of training. The annual training is also significant: facility staff are required to attend twenty-four hours and administrators and managers are required to attend forty hours of training. Staff in some specialized units, like the AB-109 or the Armed Unit, may be required to participate in additional training as the unit strives to institute best practices.

The following training is being coordinated and/or developed and implemented for AB-109 staff:

- Overview of Adult Field Supervision, Roles and Responsibilities
- Quarterly Use of Force Review and Legal Updates
- Field Contact Training
- Case Planning and Management
- Supervision of Special Victim/Family Violence Offenders

- Advanced Domestic Violence Training—How to Best Address the Needs of Victims of Domestic Violence
- Advanced Domestic Violence Training—Its Dynamics, Its Victims, Perpetrator Tactics, Risk Factors

The Department also avails itself of trainings offered by third-party providers in a variety of hands-on and classroom learning environments. Media and community attention has been greatly focused on tragedies that transpire when persons who are suffering from mental illness interact with law enforcement. OIM found that the Probation Department could do more to provide its officers training in handling its contacts with people in crisis and so reached out to the Los Angeles County Sheriff's Department and learned of two mental health awareness trainings it offers to peace officers, one approximately three hours long and self-guided (with a CD-ROM) and the other an in-class eight-hour training facilitated by mental health professionals from the Sheriff's Employee Support Services Division (ESS).[4] OIM discovered that at each eight-hour training, there were limited spots set aside for out-of- agency attendees, and it urged the Department to take some of those spots for its AB-109 staff. The AB-109 Unit was very receptive to OIM's suggestion that its staff be among the first to benefit from this opportunity, as their caseloads include probationers who suffer from mental illness. Although tailored to the needs of first responders like patrol deputies, the course is relevant to armed deputy probation officers who are engaged in field work and have regular contact with probationers. OIM helped to put executives from AB-109 in contact with LASD ESS and, with input from OIM, a probation-specific Mental Illness Awareness class is now being created and will be offered initially to AB-109 personnel. This class will be STC and POST-certified[5] and will educate probation officers to recognize signs and symptoms of various mental illnesses, as well as teach them a variety of de-escalation techniques to use in order to deal most effectively with these clients. The Probation Department is working closely with LASD psychologists to develop this class. In the meantime, armed AB-109 staff are encouraged to enroll in the existing LASD class, because they often work in conjunction with law enforcement first responders.

[4] LASD ESS recognized the value of training incoming recruits to recognize signs and symptoms of mental illness and to employ de-escalation techniques to avoid conflict in the custodial setting. Every new class of recruits since May 2012 has received training facilitated by ESS psychologists.

[5] STC stands for "Standards for Training in Corrections". POST stands for "Peace Officer Standards and Training." POST provides peace officers with the training and certification mandated by a state.

Policy Development

The AB-109 Unit has worked assiduously on the development of new policy. OIM has been at the table in the review of these proposed policies. Laws are seldom self-executing, so it remains with those responsible for translating the laws-on-the-books to law-in-action, like the Probation Department, to determine the ultimate success of new law.[6] At the inception of the AB-109 unit, OIM agreed with the Department that more training—separate and apart from that provided to new recruits by the Staff Training unit—was necessary to ensure the safety of probation staff and to equip them with the skills necessary for dealing with an entirely new population of supervised persons. Training modules were designed and implemented: law and policy relating to searches and seizures and use of force; officer safety training; force training; and defensive tactics and movement training (i.e. how to clear a location safely in order to enter it to perform a compliance check). Based on cultivated relationships with other agencies and other experts, the Department was able to utilize premier training instructors from the Los Angeles County Sheriff's Department, the Los Angeles Police Department and the FBI to design an entirely new—and AB-109-specific—curriculum. This curriculum has already been implemented and is constantly being updated according to the needs of the unit and the circumstances encountered by the unit.

Because of the newness of the law, the Department created a new manual particular to the staff in that unit that echoed policies already in place in the Department as a whole (making reference to the Core Values and the Mission Statement) as well as setting out specific procedures unique to the AB-109 staffers. OIM was included in the creation of this manual, reviewing each section as it was written and offering input, so as to ensure that the Department's policies accurately reflect the current state of local and federal laws.

[6] https://www.law.stanford.edu/sites/default/files/childpage/183091/doc/slspublic/Petersilia20Harvard20AB2010920Proof.pdf

SPECIAL ENFORCEMENT OPERATIONS UNIT

In 1999, the Probation Department created the Special Enforcement Operations Unit (SEO), its first armed unit. Probation officers assigned to SEO do not carry a regular caseload;[7] they spend the majority of their time in the field gathering intelligence, conducting surveillance, or performing searches. Their training is similar to that which law enforcement receives and their function is closer to that of traditional law enforcement than to probation officer functions of rehabilitation and social work. The SEO Unit, through multi-agency partnerships and suppression programs, targets hard-core, gang-involved, or violent high-risk probationers.

Penal Code Section 830.5 confers upon deputy probation officers the status of peace officer and gives them the conditional right to "carry firearms only if authorized and under those terms and conditions specified by their employing agency." The Department permits deputy probation officers to carry an on-duty weapon if they have completed Department-required firearms training, qualified during quarterly firearms certifications and at regular monthly range practice shoots, and passed both a psychological and medical examination.

The arming of deputy probation officers was a departure for the Department. It has long envisioned itself as a partner in rehabilitation and guidance; arming probation officers was a step into the law enforcement world of suppression.

At the time of its inception, SEO had only six armed officers. By the end of 2016, the Department is expected to have one hundred armed probation officers. Approximately fifty of these hundred will be assigned to SEO; the others will be assigned to assist the AB-109 program. Both armed units are highly visible and specialized units. Many armed officers are embedded (colloquially, "co-located") in federal, state, or local law enforcement agencies operating within Los Angeles County.

In anticipation of the growth in the number of on-duty armed probation officers, OIM assisted the Department in updating its "armed unit" policies. Monthly meetings brought together the relevant Department executives, county counsel, and OIM, all of whom contributed their

[7] That is, they are not responsible for conducting regular compliance probationary checks on the same probationers and are not responsible for writing reports to those probationers' assigned courts.

respective perspectives and expertise. One significant change was an update of its use of deadly force policy, which is now consistent with current law.[8] At OIM's urging, the Department incorporated the language in the holding in People v. Hayes which sets out a standard by which public entities who engage in uses of force can be sued civilly.[9] In mid-2014, California Supreme Court issued its decision in *Hayes v. County of San Diego*, 57 Cal. 4th 622 (2013). The reason the case is significant to the Department is that the court held that **liability for negligence may arise from tactical conduct** and decisions made by law enforcement officers preceding the use of deadly force. This means that in the civil realm, an officer's tactical conduct may be considered by a fact finder (judge or jury) when determining whether or not his/her negligence warrants a damage award. OIM also recommended that the Department ensure that Probation Department training trains to the state standard under *Hayes* as well as the federal standard under *Graham*. These policies should apply to both the SEO and armed AB109 officers.

Importantly, the revised armed unit policies retained critical post-officer-involved shooting protocols. Namely, the Department's "anti-huddling" policy remained intact. This policy, consistent with other law enforcement agencies, prohibits officers involved in an on-duty shooting from talking with each other before being interviewed by investigators. The purpose of the "anti-huddling" policy is to ensure a "pure" recollection of the incident without being

[8] Previously, the policy addressed only the U.S. Supreme Court's holding in Graham v. Connor, 490 U.S. 386 (1989). ***Graham v. Connor***, 490 US 386 (1989) was a United Supreme Court case where the Court determined that an objective reasonableness standard should apply to a civilian's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of his person.

[9] OIM recommended the Department make the following revisions to the SSB Manual in the Field Use of Force section (see language in **bold**).

- In SSB-**302.1**, in the **Note**, "The basis **for** determining whether force is "unreasonable" shall be consistent with the Supreme Court decision **in** *Graham v. Connor*…**and the California Supreme Court's decision in *Hayes v. County of San Diego*, 57 Cal. 4th 622 (2013)**."
- In SSB-**304 Category 4**, second paragraph, "Justification for the use of deadly force is limited to what reasonably appears to be the facts known or perceived by the officer **leading up to the use of force as well as** at the time the officer decides to shoot."
- In SSB-**308(H)**, "The supervisor's review should include appropriate recommendations, including whether or not the use of force was within policy, the need for additional training, **an evaluation of the involved staff member's tactical considerations leading to the use of force, whether the reports and witness statements are complete and consistent**, and whether or not additional investigation is required."
- In SSB-313, "As necessary, the Chief Probation Officer or designee will submit requests to the Professional Standards Unit to investigate the facts surrounding use of force incidents, and whether staff adhered to departmental rules, regulations, policies and procedures. **An evaluation of the staff member's tactical considerations leading to the use of force, including the staff member's efforts to de-escalate the situation shall also be part of the investigation.**

influenced by another's memory of the incident. The involved officers still have the right to meet individually with an attorney or their union representative.

Another significant protocol was implemented in late 2015. Approximately two-and-a-half years ago, OIM (then named the Office of Independent Review) entered into discussions with the Department and the Los Angeles Sheriff's Department about the wisdom of providing psychological support services in the wake of an officer-involved shooting. Discussions also took place about utilizing LASD Employee Support Services (ESS) clinicians for conducting classes for Education-Based discipline.[10] In 2015, a memorandum of understanding was signed and now officers involved in a shooting incident will have a new resource available to them. Per policy, in the event of a firearm discharge resulting in an injury or death of another person, the shooter and all involved officer witnesses are required to attend a debriefing within five days following the incident. (See Appendix 1) The intent is to provide each employee an opportunity to discuss the incident in a confidential environment. The critical incident debriefing is confidential and is not a fitness for duty re-evaluation. The only information that can and will be communicated back to the Department is notification that the employee(s) involved attended the debriefing as required. The psychological services provided by LASD ESS are also available free to all departmental employees who wish to voluntarily participate due to any personal issues they may be experiencing.

The "armed academy" has also undergone significant changes. In the past, the armed academy was a three-week program. It is now an eight-week program which includes classroom courses (such as use of force scenarios) and firearms training, which includes eight hours of review of the armed policy manual; eight hours of weapon manipulation training; and three days (twenty-four hours) with the Los Angeles County Sheriff's Department PC 832 training.[11] An additional

[10] In its Second Annual Report, the Office of Independent Review reported that the Probation Department had followed OIR's suggestion and introduced a new, less punitive disciplinary option called Education-Based Discipline (Office of Independent Review, Second Annual Report, March 2013, p. 21). Under this system, instead of being docked a certain number of days' pay as a consequence of a founded policy violation, an employee would be permitted to elect to use some or all of those days to attend relevant training classes which are designed to remediate the employee's conduct.

[11] The PC 832 training is limited to handgun techniques only (oftentimes, there is an arrest portion to the training which can be a separate five-day course). The first day is spent in the classroom and includes safety and hands on familiarization of the firearm. Days two through four are spent on the range. On the final day, the deputy probation officer must qualify with the firearm by successfully passing a state-standardized course of fire.

six-month Post Academy Training and Evaluation Period component was also added to the overall Arming Academy program.

Armed officers are issued the Smith & Wesson 9mm handgun; this weapon was chosen for an array of advancements, including the ambidextrous slide release, the light railing system (flashlight), the night sights, its interchangeable grips, its additional ammunition capacity, and its lighter weight than the previously-issued weapon (Beretta 92FS). To its credit, when the Department discovered the light affixed to the weapon was causing accidental discharges, it ordered the removal of the light until additional training could be conducted. In 2015, OIM provided additional training to armed officers and explained the administrative process and expectations related to officer-involved shooting incidents.

Training for armed officers is continual and robust. With regard to firearms training, officers must qualify every month (this requirement exceeds minimum standards followed by local law enforcement agencies) and comply with the standard POST quarterly qualifications.

SPECIAL PROJECTS TEAM

Since OIM's arrival at the Probation Department it has observed a steady evolution of the Internal Affairs Unit. As we reported in our first Annual Report, one significant change made by the Department early on, at the urging of OIM, was to reform administrative reviews of employee arrests and to promptly assign arrest/off-duty misconduct cases to trained internal affairs investigators.[12] The change prompted an increase in staff to handle the numerous investigations. OIM continues to provide "real time" monitoring of those investigations. The Department's interest in reviewing and investigating potential criminal matters involving its employees has not waned and, in fact, in the past couple of years, it heightened its attention to fraud cases, prompting another significant change to the Internal Affairs Unit—an expansion of the unit to include specialized investigators.

[12] See OIR Annual Report (February 2012) for additional details about how the Department changed the way it handled administrative reviews of off-duty (arrest) cases.

Fraud Investigations

In 2013, with the support of OIM, the Department took a more proactive approach to address potential workers' compensation fraud committed by its employees. Ultimately, the Department determined it could handle these types of investigations "in-house" if it recruited additional investigators and trained them. Previously, these criminal investigations had been referred to the Chief Executive Office's (CEO) Risk Management Division who determined whether to send the cases to outside agencies. The Department had little control over these cases/investigations. Relying on outside agencies for these investigations proved challenging when attempting to obtain information about them.

Based on the Department's new commitment to these cases, a "Special Projects Team" (SPT) was formed. By 2014, the Department had recruited for and filled these specialized armed positions. Four Supervising Deputy Probation Officers are now an integral but separate part of the Internal Affairs unit. The Department's Return to Work (RTW) unit, operational supervisors and managers, as well as anonymous sources, refer potential fraud cases to the SPT investigators who work closely with outside agencies including the California Department of Insurance, the District Attorney's Healthcare Fraud unit, and the County's Third Party Administrator (that oversees workers' compensation insurance claims) on these criminal investigations. After collecting evidence and conducting interviews and surveillance, the investigative reports are submitted to the District Attorney's Office for filing consideration. Since its inception, the SPT investigators have conducted numerous fraud investigations, five of which have resulted in arrests and/or subsequent convictions.[13] OIM continues to assist investigators with these cases by providing recommendations regarding interview strategies and evidence collection. The following cases are examples of the fraud investigations that led to criminal fillings.

[13] OIM understands that prior to the Special Projects Team's existence, the Department may only have had one arrest/conviction for a fraudulent filing of benefits (in 2012) and no criminal filings involving falsification of medical notes.

Case One

Sworn subject[14] submitted eight forged medical notes in order to get paid by the Department to take time off. During her interview, she was confronted with the manufactured notes. She explained that she had falsified them because she had been denied a vacation request. She manufactured the notes to get "approved" time off during the Christmas holidays. Following the filing of three felony counts, the employee resigned. The employee had been employed by the Department for six years.

Case Two

Sworn subject, hired in 2008, altered one medical note that allowed her to unlawfully utilize paid sick leave benefits. When SPT investigators interviewed the subject, she initially denied having submitted the altered medical note to the Department. That claim, however, contradicted the fact that she herself had emailed the note directly to the Department. She then claimed that her minor son must have altered the note as part of his "therapy/learning exercises" and that it must have been sent to the Department by someone who had visited her home. The case was submitted to the District Attorney. Three felony charges (insurance fraud, grand theft and presentation of fraudulent claim) and one misdemeanor charge (alteration of medical note) were filed. The subject employee pled guilty to all four counts. She was discharged.

Case Three

Sworn subject reported to the Department he was too ill to come to work and altered medical notes to receive benefits to which he was not entitled. SPT investigators conducted interviews of the medical staff and verified that the employee had falsified the medical notes. SPT investigators made several attempts to interview the employee but he did not respond. The District Attorney filed two felony charges (two counts of insurance fraud). A warrant was issued and the subject employee was arrested. He later pled guilty to the two felony charges. The employee, who had begun his career with the Department in 2008, was discharged.

[14] Sworn employees include Deputy Probation Officers, Detention Service Officers, Group Supervisor Nights ("GSN's") and Transportation Deputies.

Case Four

Sworn subject was arrested for filing a fraudulent insurance claim and fraudulent workers' compensation documents. The subject employee falsified the documents to unlawfully extend her short term disability benefits (she fell off a chair while on duty). The District Attorney filed two felony counts. In 2015, the employee pled "no contest" to the charges. The employee had been placed on unpaid administrative leave pending the outcome of the criminal matter and later resigned. The employee began working for the Department in 2006.

Case Five

SPT investigators worked with the California Department of Insurance on this criminal investigation. Before the criminal investigation was completed, the sworn subject transferred from the Probation Department to a different county department; however, the fraud under investigation occurred when the subject employee was employed by the Probation Department. After the criminal investigation was concluded, the employee was arrested and the District Attorney filed fourteen felony fraud charges. The employee subsequently pled guilty to two felony charges; the remaining charges were dismissed as part of a plea agreement. After the employee's transfer to the different county department, another criminal investigation was initiated and revealed additional fraud committed while the employee was working with a different county department. The District Attorney recently filed six felony fraud charges.

Officer-Involved Shooting Investigations

In addition to conducting fraud investigations, SPT investigators also became the team responsible for conducting the administrative reviews of critical incidents such as on-duty officer-involved shooting (OIS) incidents involving armed Probation officers. The Department intends for the criminal investigations for "hit-shootings" (where someone is wounded or killed) to be conducted by outside law enforcement agencies[15] but SPT investigators will "roll to the scene," closely monitor those cases, and conduct a separate administrative review of those

[15] On this point, the Department has had contract discussions with the Los Angeles Police Department and the Los Angeles County Sheriff's Department.

incidents. For "non-hit" officer-involved shootings,[16] the SPT team takes immediate control of the scene and is responsible for accomplishing tasks that are vital to the administrative review process, which include but are not limited to:

- Establishing a perimeter (evidence preservation);
- Identifying and protecting potential perishable evidence, such as trace and biological evidence, video evidence, etc.;
- Ensuring all civilian witnesses' names and contact information are documented; and
- Conducting interviews

OIM assisted in the drafting of the Use of Force and Arming polices that govern the SPT protocols. Additionally, OIM assisted in the drafting of the SPT manual that details the responsibilities and protocols for handling an officer-involved shooting. OIM also facilitated trainings for the SPT investigators that focused on best investigative practices for use of deadly force incidents.

OIM attorneys are also "on-call" and will roll to shooting incidents along with the SPT investigators. Like other cases, OIM conducts "real-time" monitoring of these investigations and when they are concluded makes assessments about the involved officers' actions.

Since the creation of the SPT, there have been no on-duty hit or non-hit officer-involved shootings but the team continues to train and is prepared to respond to a shooting incident when one occurs.

[16] A "non-hit" officer-involved shooting is an incident where an armed officer fires his/her duty weapon at a person but does not strike the individual. In those instances, there is no criminal investigation conducted of the officer who fired his/her weapon.

Part Two

EMPLOYEE MISCONDUCT

OIM monitors both on-duty and off-duty misconduct investigations and tracks them from "cradle to grave"; meaning investigative recommendations are made at the initial stages of the administrative process and continue to provide input though the disciplinary phase. For those cases where the allegations are supported by evidence, employees face some level of correction action. Misconduct that is not serious in nature may result in low level discipline (i.e. written reprimand or some suspension days) but significant and serious misconduct, either on or off the job, can result in termination. Any employee who both violates policy and falls significantly below the expectations and standards set out by the Department can be discharged, but this generally happens only after a fair and thorough administrative investigation has taken place. OIM's oversight is intended to ensure that the investigations and resultant disciplinary decisions are based on provable facts, whether written, oral, or video, that the discipline is consistent with discipline meted out in similar cases.

ON-DUTY MISCONDUCT

In 2015, OIM reviewed approximately two hundred thirty internal affairs investigations; a vast majority of those cases related to on-duty misconduct allegations.[17] Many of these on-duty misconduct cases pertained to alleged misuses of force of minors in the custodial setting and dishonesty (i.e. timecard fraud, manipulation of official documentation, falsifying safety checks);

[17] This number does not include OIM's review of off-duty misconduct investigations and cases we reviewed at the triage stage and may have resulted in closures.

others pertained to negligent supervision, abandonment of post and inappropriate relationships with clients.

OIM works closely with Department investigators and regularly provides recommendations and input on the scope or direction of an investigation. By inserting itself early in the investigative process, OIM is able to, when necessary, avert the submission of a subpar investigation or the reaching of an unprincipled decision. If the allegations are supported by the evidence, OIM ensures that employees are held accountable—that disciplinary levels reflect the severity of their missteps—and that the imposed discipline is uniform and consistent with past practice.

Unnecessary/Excessive Use of Force

Case One

A sworn employee used unnecessary force on a minor and wrote his report to suggest that the minor's aggression provoked the use of force. The allegations of misuse of force and falsely documenting an incident were substantiated.

A minor was returning from court. A week prior, the subject employee had written the minor up for being an "incorrigible" and "contumacious" minor. The subject employee had recommended to the juvenile court judge that the minor's custodial time be extended by two weeks as a consequence of his "out of control" behavior. When the minor came back from his court hearing, the subject employee taunted the minor, implying that the reason he had been returned to custody was because of the negative report the subject employee had submitted to the court. The minor responded by threatening to "kick [the subject employee's] ass." During this exchange, the minor was still in handcuffs. Another sworn employee who had transported the minor back to the facility, inquired of the subject employee if it was okay to remove the handcuffs.[18] The subject employee communicated his assent.[19] At this point, the subject employee had already removed his canister of oleocapsaicin ("OC") spray (also known as "pepper spray") canister from its pouch and was shaking it. The handcuffs were removed and it

[18] Because, presumably, if the subject employee had felt threatened, he would not have directed the handcuffs to be removed.

[19] If the subject employee really felt threatened by the minor, then he had sufficient time to ask the transportation officer to keep the handcuffs on the minor and sufficient time in which to call for the assistance of a supervisor to try to counsel the minor and calm him down. The subject employee did neither.

appeared as if the subject employee beckoned the minor forward. The minor stood up and the subject employee sprayed him twice in the face, two one-second bursts. The subject employee did not make physical contact with the minor. The minor did not suffer any injuries. The incident was captured on video surveillance.

In his report, the subject employee wrote that after the handcuffs were removed, the minor attempted to assault him, which necessitated the deployment of the OC spray.[20] Although the minor may have verbally threatened the employee, witnesses did not observe the minor exhibit any physical aggression toward the subject employee. The subject employee retired soon after receiving significant discipline for his misconduct.

Based on OIM's recommendation, the Department presented the case to the Los Angeles County District Attorney for consideration of criminal filing. The case was declined.

Case Two

In this case, OIM agreed that an internal affairs investigation proved that the sworn subject used unnecessary or excessive force, falsely documented the reason for a physical restraint, and provided untruthful statements during an administrative investigation.

Video evidence showed[21] the employee initiating physical contact with a minor with whom he was frustrated. After the employee hemmed the minor into his bed area, the minor pushed the employee away and a short shoving match ensued. The employee, who was much bigger than the minor, grabbed the minor's arm, spun him around, and drove his chin into a waist-high wall that separates rows of bed in the sleeping area. The resultant injury required several stitches. The employee's written report stated that the minor was the aggressor and failed to chronicle any provocative actions taken by the employee himself. The Department's disciplinary action is pending.

[20] Use of OC spray is permissible in Department policy, but only as a last resort and only to avoid bodily harm to the employee. Prior to its deployment, an employee trained it its use must issue an "OC warning," which alerts the minor(s) that if s/he does not cease the combative behavior, the employee is prepared to use his or her OC spray. In this case, the subject employee gave the OC warning while he deployed the OC spray.

[21] Only the juvenile halls and the camps housed within the Challenger Memorial Youth Center have cameras. OIM has encouraged the Department to prioritize the installation of state-of-the-art video in all of its custodial facilities.

Case Three

Sworn subject was pulled from his work assignment to supervise two minors who had suicidal ideations. The employee was seated in a hallway between the two minors' rooms. Based on video and witness evidence, the subject employee summoned one minor out of his room after the minor swore and verbally challenged the employee. When the minor stepped through his doorway, the subject employee stood up and advanced in the minor's direction. The minor can be seen backing into the room, clutching his Department-issued blanket around his waist. The employee then grabbed the minor, pushed him across the room and down onto the bed. As the minor fell, his head struck the cinder block wall behind the bed. The employee then appeared to be holding the minor down on the bed. The minor does not appear to be resisting or fighting back in anyway. The subject employee eventually released the minor who then can be seen walking out of the room, holding his hand to the back of his head, and crying. The minor was transported to the hospital and received one staple to his head.

The employee claimed his actions were prompted by the minor's "aggressive stance." His assertion was inconsistent with the video evidence and the minor's own statement. OIM recommended the case be referred to the District Attorney's Office.[22] Misdemeanor charges of criminal threats and child abuse were filed. The jury trial resulted in an acquittal.[23] OIM has recommended discharge. Disciplinary action is pending.

Contractors

LACOE[24] provides educational instruction to minor clients that are housed inside Probation-run detention facilities. LACOE teachers, as well as, administrative staff must abide by Probation policies while inside these facilities. Discipline, however, can be meted out only by LACOE as the employer. For its part, the Probation Department can, however, request that a LACOE

[22] In some cases, where the allegation is unnecessary/excessive use of force is proven administratively, the misconduct may also rise to a criminal act. The decision to file criminal charges rests solely with the District Attorney's Office. In use of force cases that appear to be egregious (potentially criminal), OIM has recommended the case be submitted to the District Attorney's Office for consideration.

[23] OIM understands that the District Attorney failed to prove specific intent to harm the minor.

[24] LACOE stands for, "Los Angeles County Office of Education." There exists a Memorandum of Understanding ("MOU") between the Probation Department and LACOE for alleged misconduct by LACOE employees working in a Probation-run facility. The MOU permits for joint investigations to be conducted by Probation's Internal Affairs Unit and the LACOE investigative unit.

employee be temporarily or permanently locked out of a Probation-run facility, upon a substantiated finding of misconduct. The same is true for other contract employees working in the Department.

Case One

A LACOE secretarial clerk admitted that she permitted minors to use her personal cellphone to take and post pictures of themselves on social media websites while detained at a Department-run custodial facility. Some of these pictures depicted minors clustered together displaying the hand signs of the gangs to which they claim allegiance. Other pictures identified the location of the minors' detention. During the investigation, minors revealed that the secretarial clerk would urge them to "hurry up" or to "hide" under her desk when she feared discovery by the school principal. In the clerk's interview, she denied having done so (tacitly acknowledging wrongdoing in the presence of the minors) and also denied knowledge that what she was doing was prohibited; she insisted that she only wanted to help the minors and create a friendly rapport with them.

The allegation of misuse of cell phone was substantiated, and, upon OIM's recommendation, she was prohibited from entering Probation-run facilities.[25]

Case Two

A Department employee called a custodial facility to inform a probation officer that she had seen an Instagram post of minors wearing Department-issued clothing and displaying gang signs. The investigation revealed that a community outreach provider had brought her cell phone into the facility with her and left it unattended on a bench, hooked up to a stereo speaker, while various activities took place. Minors had picked up the phone to change the music and in so doing, realized that they could access the internet. Several pictures were snapped and one was posted to one of the minors' Instagram account. Although the community outreach provider insisted that she did not know the minors were taking pictures and posting them to social media sites, witness testimony proved that she at the very least observed the minors handling her phone and

[25] The minor interviews spurred parallel investigations into allegations of other Department employees allowing minors cell phone access. (see next case description)

manipulating the music playlist. She admitted that there was no lock on the phone to prevent anyone other than her from using the features of the phone.

The allegations against the community outreach provider were substantiated. Although her conduct was found to be negligent there was insufficient to prove it was willful. She was admonished, she apologized and was permitted to return to the custodial facility.

Dishonesty

Case One

A sworn employee was accused of having abandoned her post and falsified hall check forms. When confronted by internal affairs investigators, the subject employee lied about her whereabouts. The record showed the employee left her assignment approximately thirty minutes early[26] without asking for or receiving permission, which is required by both policy and procedure.[27] She signed a safety check sheet indicating that she had conducted between one and three safety checks that occurred after she had already left the building. The employee was disciplined for her misconduct.

Case Two

A sworn employee manipulated her entries in one of the Department's record-keeping systems in order to avoid having to submit abandonment reports to probationers' courts. An impromptu audit by the area office revealed that there were ten probationers assigned to this employee who had not reported for between five and twelve months (policy requires a report of abandonment be sent to the court after *two* consecutive failures to report). The employee had coded their noncompliance in such a way that her failure to draft reports was not immediately apparent to an auditor. When confronted with the evidence, the employee claimed that those ten cases had just "slipped by her." She also complained that she was undertrained and overburdened. However, the record showed that she did not have any more cases than any other sworn employee of her

[26] The subject employee's shift ended at 2200 hours. The employee claimed to have left at 2155 hours; other staff on duty insisted that she was gone by 2135 hours. Taking her at her word, she could not have performed at least one of the safety checks (signed off on at 2158); taking other people at their word, she falsified the checks at 2133 and 2146.

[27] The subject employee claimed to be unaware of the policy and procedure, despite the fact that she is a seven-year employee of the Department.

rank and assignment at that office. The record also showed that she repeatedly and affirmatively made these evasive entries into the Department's computer system (i.e. it was not as if there were blank entries in the probationers' records, which could have been interpreted to be an oversight on the employee's part).

OIM concurred that the allegations were substantiated by the investigation and recommended significant discipline. The Department's action is pending.

Case Three

A sworn employee obtained a blank copy of a test that was administered on a day that she was absent from a four-week training course. The subject employee filled out the test unproctored and turned it in for a grade. The instructor, well aware of the subject employee's absence on the test date, was surprised and refused to grade it. The employee gave two stories explaining how she had obtained the test: a colleague had provided her with it, or a blank copy was "left" in her binder on the date of her absence. The instructor had passed out the tests with only enough distributed for the number of test-takers present. On the day of the test, the instructor had provided additional instructions and information. That additional information was contained in the subject employee's answers. When confronted, no one in the class claimed to have any knowledge of how the subject employee either obtained the test or became privy to the test-taking instructions. Department action is pending.

Case Four

A sworn employee affirmed that she completed a 15-minute safety check even though she did not actually perform the check. Another staff member, working overtime on that shift, told investigators that the employee was not even present in the dorm during at least one time that she signed off on the safety check sheet. A supervisor observed the employee sign herself in at the beginning of her shift. The employee signed herself in at one time, when the display on the clock showed an entirely different time. The supervisor wrote over the subject employee's signature, correcting the entry. His testimony corroborated the co-worker's claims that the subject employee had not even arrived at work at the time that she claimed she made the first two safety checks. Moreover, the other staff member added, the subject employee performed all of her "checks" from a seated position in the control center, rather than walking the rows of beds to

check on the minors, as required by policy. The subject employee also disappeared for two hours in the middle of the night, leaving the other staff member alone with a full dorm.

The allegations for falsification of documents and for dishonesty were substantiated. OIM concurred with the Department's decision to impose significant discipline.

Relationship Inconsistent with Probation Department Employment

This past year, OIM has reviewed cases in which Department employees have allegedly established/maintained personal associations with known felons or probationers; which is prohibited. These cases, more often than not, result in discharge because of the clear conflict with the Department's core values and mission.

In this case, a sworn employee wrote and received one letter from each of three juvenile clients[28] who are now serving time in state prisons, having been sentenced as adults. The employee claimed not to have known that epistolary communication was against policy and insisted, as mitigation, that she never tried to hide the letter that she received from each of the former minors. The holiday cards she wrote were neutral in tone, were sent several months after the minors had communicated with her, and were the sole communication she had with the minors; each of the cards sent was similar to the others and urged the boys to improve themselves and to behave. Affidavits from the former minors corroborated that the cards were the only communication each had received from the subject employee and established that the subject employee had never visited any of them in prison. However, the contact itself, regardless of the intention, violated Department policy. Department action is pending.

OFF-DUTY MISCONDUCT

In addition to monitoring on-duty misconduct, OIM performs oversight of off-duty misconduct. In 2015, there were 42 incidents where Probation Department employees were arrested or had significant contact with a law enforcement agency following a criminal investigation. The arrests/contacts vary in nature from driving under the influence to fraud, domestic violence/battery and solicitation of prostitution.

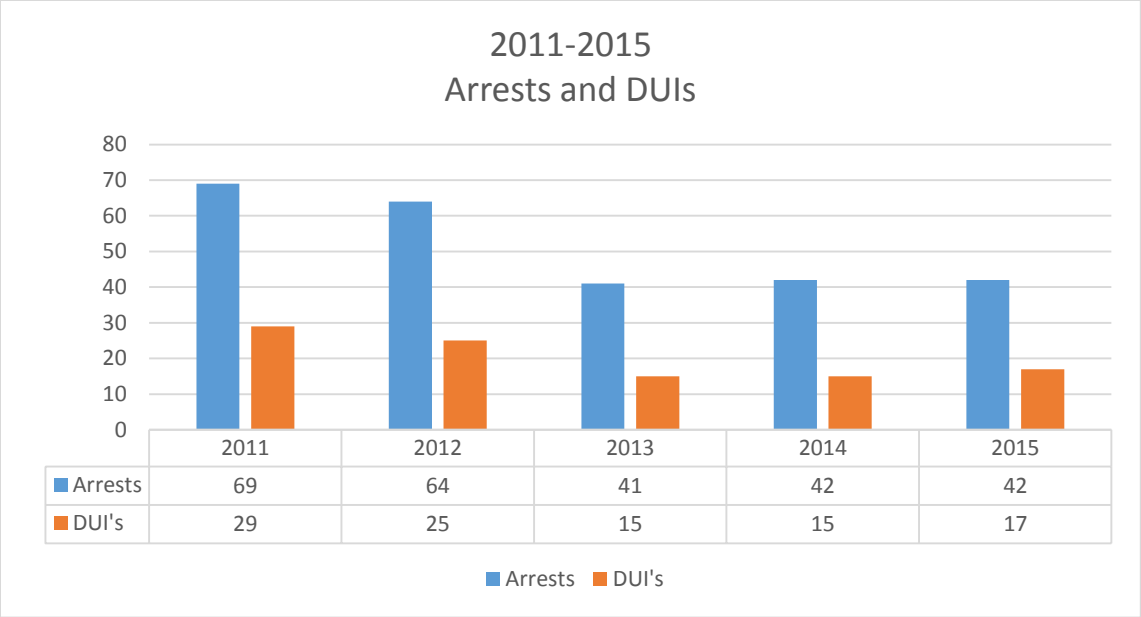
[28] Who were not part of her caseload, but were detained in a facility where she worked.

Notably, this year employees "over-reported" their contact with law enforcement. For instance, though not required to, employees reported being contacted and cited for traffic violations (including driving with a handheld device and moving violations). Those police encounters, as well as other encounters that were less significant (e.g. citation for playing loud music at a residence) or where the employee was the victim of a crime (and no other issues were identified) were not included in this year's review. In one case, for instance, an employee while off-duty was a victim of an attempted car-jacking incident (suspect wielded a knife) and fired one non-fatal round (with his personal firearm) at the suspect. The suspect was subsequently convicted of the crime.

Driving Under the Influence

Consistent with past years, driving under the influence arrests are the largest single category of off-duty incidents. For the past two years (2013 and 2014), the number of DUI incidents was fifteen. This year, the number of DUI arrests rose slightly to seventeen. One employee (non-sworn) was arrested twice for DUI this year. With the exception of two employees, all DUI arrests involved sworn personnel. One DUI arrest involved a manager.

Per past practice, a DUI offense warrants a standard 15-day suspension but where aggravating factors are proven, OIM continues to recommend the Department impose more significant discipline than the standard 15-day suspension for the misconduct. In six of the seventeen DUI incidents, for instance, employees also misused their Probation Department identification while being detained and questioned by officers. In those cases, OIM recommended additional suspension days for the misconduct. Aggravators also include an employee's failure to report the arrest; traffic collisions; uncooperative behavior; blood alcohol concentration (BAC) twice the legal limit; and consuming an alcoholic beverage while behind the wheel of a vehicle.



Case One

Officers on patrol observed the non-sworn subject drinking from a small miniature bottle. The employee was then pulled over. Officers approached the vehicle and informed her of the reason she was being stopped. She readily admitted to consuming an alcoholic beverage (vodka) and removed the miniature bottle from her center console. She failed the field sobriety tests. Based on their observations and her inability to perform the field sobriety tests, the employee was arrested. Her BAC was .10. The employee pled "no contest" to DUI. OIM recommended more than the standard 15-day suspension. The Department issued a 20-day suspension.

Case Two

In this case, officers responded to a traffic collision. When officers arrived on the scene, they observed the non-sworn subject employee in the driver's seat of one of the vehicles involved in the collision. The employee informed the officer that she had been drinking an alcoholic beverage. The officer smelled the odor of alcohol emitting from her breath. She failed the field sobriety tests and was arrested. Her BAC was .27. The employee pled "no contest" to DUI. The employee did not report the arrest to the Department. This was the second DUI for this employee in 2015 (see "Case One" above). An administrative investigation is currently pending.

Case Three

An officer responded to a report of a possible DUI. The driver was observed driving on the opposite side of the road. When the officer located the vehicle it was parked on the side of the road and sworn subject was outside the vehicle. Upon contact, the subject employee started yelling profanities at the officer. He also yelled, "My badge is in the car," several times. The subject employee failed to immediately follow the officer's orders to get on the ground, but when he finally did comply, he identified himself as a Los Angeles County Probation officer. While on the ground, Subject yelled, "Are you a tough guy?" A backup unit arrived and assisted the first officer in handcuffing the subject employee. The BAC was .18. At the hospital (to get cleared for an "OK to book"), the subject employee continued to be belligerent and stated to an officer, "Got your swastika?" The subject employee did not report the arrest to the Department. The District Attorney filed criminal charges. The criminal case is pending. OIM recommended more than the standard 15-day suspension. The Department's disciplinary action is pending.

Case Four

In this case, the sworn subject was detained while parked at a gas station and subsequently arrested for DUI. Although the Subject was sitting in the driver's seat, he was not actually driving when he was contacted and detained by the officers. During the field sobriety tests, the subject employee told officers, "I work for the County Probation Department," and mentioned his work location. The encounter was captured on video and clearly showed the subject employee having difficulty walking and performing the field sobriety tests. His BAC was .22. The criminal case was initially filed by the District Attorney but later dismissed because there was insufficient evidence to prove the subject employee was driving at the time he was detained. OIM recommended the Department conduct an administrative investigation during which the employee admitted that he was intoxicated in public. Based on the evidence and the employee's admission, the Department disciplined the employee (Conduct Unbecoming a Peace Officer, Misuse of Probation Department Identification, Drunk in Public and Failure to Report the Arrest). The employee was discharged, based on similar past misconduct. OIM concurred with the Department's action.

Case Five

Witnesses reported they saw the sworn subject stumble into his vehicle and drive away. He was then observed colliding with an unoccupied parked vehicle before driving away. Officers initiated a traffic stop and detained the subject employee. When contacted, the subject employee told officers he had a loaded weapon in his vehicle. When officers did not locate the weapon, the employee stated he was a Probation officer and that he left the weapon at home because he knew he was going to drink that day. The employee refused to participate in the field sobriety tests. Based on the officers' observations (objective signs of intoxication), the employee was arrested. At the station, the employee submitted to a chemical test which resulted in a BAC of .24. The employee pled "no contest" to DUI. OIM recommended more than the standard 15-day suspension based on the aggravators. The Department's action is pending.

Case Six

In this case, an officer observed a vehicle driven by the sworn subject (a manager) weaving within a lane. The subject employee was immediately pulled over. Instead of handing the officer his driver's license, the employee handed over his Probation identification. The employee failed the field sobriety tests and was arrested. His BAC was .10. OIM recommended more than the standard 15-day suspension based on the aggravators. The Department's action is pending.

"Repeat Offenders"

This year, there were two employees (one sworn and one non-sworn) who had two law enforcement contacts each in 2015. At the beginning of the year, a sworn employee was observed making contact with an undercover officer who was posing as a prostitute. The police agency took a photograph of the employee's vehicle (rear license plates). The photograph did not capture the driver of the vehicle. The employee was not detained or arrested. Later, the police agency sent the employee a letter and the photograph and requested he come in for an interview. During both the police and administrative interview, the employee confirmed his vehicle was depicted in the photograph but denied he was the driver, stating he loans his vehicle to many people. There was insufficient evidence to disprove his assertion. In the other case, following a "road rage" incident, a citizen reported to police that the sworn employee followed her into a parking lot and confronted her. While in the parking lot, the employee allegedly

flashed his Probation Department badge. Officers responded to the location and the employee admitted he followed the citizen into the parking lot (he claimed she was driving unsafely) but stated he could not recall if he flashed his badge. Because the citizen could not be located for an interview the case against the subject employee was not conclusively proven. As mentioned above, the non-sworn employee was arrested twice in 2015 for driving under the influence.

Felony Fraud Cases

In 2015, three cases involved on-duty criminal misconduct. In those cases, three employees altered medical notes to receive Department benefits to which they were not entitled. All three employees were arrested and subsequently pled guilty to felony fraud charges. They were discharged. (See Special Projects Team section for full discussion of cases.)

Brandishing a Firearm

In this case, police officers responded to a call from a victim/motorist who reported the sworn subject waved a firearm at him during a road rage incident. The victim informed the subject employee he was going to call the police. The employee replied, "I am [the]...Police!" At that point, the victim alleged the employee pulled out a badge or ID card. When detained by officers for questioning, the employee admitted he was going to remove his ID from his "fanny pack" but had not. He also admitted he had a weapon in his fanny pack but denied removing it. The employee was not arrested at that time. Criminal charges were filed. The employee was subsequently convicted by jury trial of brandishing a weapon. The employee received a 30-day suspension.

Solicitation of Prostitution

This year there were two solicitation of prostitution cases. One case was mentioned above (see "Repeat Offenders"). In the other case, the sworn subject was in his vehicle when he was observed talking to a prostitute. The subject employee was not arrested because officers did not hear the actual conversation between him and the prostitute. The incident was reported by the involved police agency. The subject employee retired before an administrative investigation was completed.

Domestic Violence/Battery

This year, there were a total of seven cases that involved either domestic violence or battery. OIM has observed throughout the years that despite physical evidence (i.e. injuries) the criminal cases are often rejected or later dismissed by the District Attorney because the victim (often a female) is uncooperative and refuses to testify. At the urging of OIM in some cases, the Department has initiated an administrative investigation on these matters (regardless of the disposition of the criminal case) since the standard of proof is lower (preponderance of the evidence) than the criminal standard (beyond a reasonable doubt). The Department investigators still often experience difficulty obtaining a voluntary statement from the victim. However, in some instances, the subject employee has admitted (to Department investigators) facts alleged in the original police report; facts that may prove misconduct and warrant disciplinary action.

Case One

Police officers responded to sworn subject's home where the victim/wife alleged the subject employee pushed her in the chest with an open hand and then pulled her to the ground by her hair. Based on the victim's statements, the employee was arrested. The case was submitted to the District Attorney's Office but criminal charges were not filed because the victim refused to cooperate in the case. The administrative investigation is currently pending.

Case Two

While on patrol, officers observed the victim (sworn subject's wife) walking down the street barefoot and distraught. The victim told officers that the subject employee had punched her in the head, stomach and side repeatedly. The victim reported that the employee accused her of cheating. The officers observed swelling and redness to her arm and redness behind her ear. The victim also had cuts on the inside of her fingers that were bleeding. The employee was arrested. The District Attorney's Office filed criminal charges but later dismissed the case because the victim was uncooperative. An administrative investigation is pending.

OIM works closely with the Arrest Unit staff, which consists of two investigators and one supervisor. OIM continues to be impressed with the unit's dedication, the thoroughness of its investigations and its willingness to respond to OIM's investigative recommendations. In cases

where the misconduct is proven, OIM continues to monitor the cases through the disciplinary phase and offers recommendations regarding the appropriate level of discipline.

DISCHARGE CASES

Between January 1, 2015 and December 31, 2015, thirty-eight Probation Department employees were discharged.[29] This means that, in 2015, the discharges of thirty-eight employees became effective; some employees have exercised their right to appeal the discharge and have avenues of appeal still open to them.[30] The investigations that resulted in this final discipline started as long ago as 2011 and as recently as this year. The civil service process is not a speedy process and can sometimes drag on for years. The reason for the delays can be attributed to employees' unavailability due to protected leave, tolling for criminal investigations and/or to the wheels of civil service rights. Reasons for discharge in 2015 were varied: criminal arrests (and sometimes convictions), associations with prohibited individuals and former clients, exhibiting extremely poor judgment, and excessive use of force.

Use of Force

[29] One employee was discharged for chronic attendance issues and another one was "deemed resigned" (i.e. "no-show) pursuant to County Code Section 5.12.020 which provides, in pertinent part, that a county officer or employee is "deemed resigned if:

> A county officer or employee who without prior authorization is absent or fails to discharge is regularly assigned duties for either three consecutive regular working days or for two consecutive regularly scheduled on-duty shifts, whichever may be applicable, shall be deemed to have resigned effective as of the end of the day of which he last performed any of the duties of his position; provided, however, an officer or employee shall not be deemed to have so resigned if he resumes the performance of his regularly assigned duties at the commencement of his next regular working day or on-duty shift following the expiration of the aforementioned period of absence or failure to discharge duties.

[30] The cases described in this report represent those in which a "final" letter of discipline was issued to the described employee and the discharge became effective in 2015. When the Department decides to discipline an employee, it sends a "Notice of Intent" letter to the employee memorializing the Department's preliminary disciplinary decision and the basis for that decision. When an employee receives a Notice of Intent letter, that employee has the opportunity to appeal the intended discipline. If the employee exercises that right, a Skelly hearing is held wherein the employee may present new or unaddressed evidence disproving an alleged policy violation. The Skelly officer, a decision-maker who is a high level manager not associated with the facts of the case, offers no opinion during the hearing, but at the close of the presentation of new evidence, makes a recommendation to uphold or amend the intended discipline. If the Skelly officer recommends upholding the proposed discipline, then a final letter is written and the discharge is effectuated. At this point, the employee still has other avenues of appeal and may petition for a Civil Service Hearing (for a more detailed discussion of the appeal process see the "Writ Cases" in this report). The cases in this section are those in which final letters have been sent. In addition, two employees resigned after being notified they were going to be discharged; eight others resigned before the administrative investigations were completed.

In this case, the sworn employee's use of force did not result in any injury but, nevertheless, the use of force (push) was against Department policy. His further transgression was an established pattern of denigration and provocation of minors under his care, for which he had been previously disciplined. Minors in juvenile halls and camps can be disrespectful, challenging, and frustrating (as can any teenager), but Department employees are taught de-escalation techniques, and should be prepared for the challenge. This employee was unable to do so, and during his fifteen years with the Department, he was repeatedly censured and disciplined for his treatment of minors. In this last and final instance, rather than de-escalating a situation, he provoked, taunted, swore at, and shoved one particular minor over a period of about an hour and during movement from place to place. OIM concurred with the Department's decision to discharge the employee. The employee has appealed the discharge.

Spousal Rape/Tampering with Witness (Felony)

After a full day of arguing, an employee chased his wife into the bedroom, locked the door behind himself, and proceeded to force himself on her. She repeatedly told him to stop and at one point managed to push him off of her, but he chased her into the closet, where he continued his assault. During the assault, the employee's wife fell and injured her head. Police were called, the employee was arrested, and the prosecuting agency filed felony charges (spousal rape and oral copulation). While the criminal case was pending, the employee contacted the victim. As part of a plea agreement, the felony spousal rape and oral copulation charges were dropped and the employee pled to two counts of felony witness tampering.

Repeat Offender

This sworn employee had a lengthy history of disciplinary actions against him. Prior discipline was imposed for a wide range of policy violations, from excessive force on a detained minor to three incidents of excessive absenteeism. After almost seven years of employment with the Department and repeated and progressive discipline, this employee was discharged following an arrest for a DUI, Possession of Marijuana, and driving an unregistered vehicle. He had also failed to report contact with a law enforcement agency and yet another arrest for possession of marijuana, six months prior to the DUI arrest.

Case One

While out of state, the employee was a rear passenger in a car that was pulled over by officers. As police officers approached the vehicle they could smell burning marijuana. A front-seat passenger informed police that the employee was smoking marijuana in the back seat and threw out what he was smoking when the vehicle was pulled over. The police report also noted the recovery of a marijuana "blunt" and a small amount of marijuana from near where the employee had been seated. The discovered contraband, in conjunction with the witness statement, ultimately lead to the employee's arrest for possession of a controlled substance.

Although the employee did report this arrest, he was dishonest and provided false and inconsistent statements during his administrative interview. Later, a bench warrant issued for the employee as a result of his failure to appear in court. Despite two notifications from the Probation Department about the existence of the bench warrant and the directive to rectify the warrant, the employee failed to clear up the warrant.

Case Two

Less than a month following the out-of-state arrest, the employee was contacted by local police officers when the employee and his girlfriend were involved in a physical altercation. The girlfriend told police that jealousy caused the employee to strangle, hit, and bite her as they sat in his car in front of her residence. She alleged that he strangled her twice, the second time leading to her losing consciousness; she believed he further physically assaulted her when she was unconscious. After she regained consciousness she exited the vehicle and called 9-1-1. The employee was gone upon the officers' arrival. Later, the girlfriend became uncooperative with the investigation, retracting her statements and asking that the employee not be prosecuted. Ultimately, the Los Angeles District Attorney's office did not file any charges. However, it is a requirement that Department employees report contact with law enforcement. In this case, the employee was contacted as a suspect, and he neglected to mention that fact to the Department.

Case Three

The last incident involved another DUI and possession-of-marijuana-arrest by a local police agency. After an evening of drinking, the employee got behind the wheel and crashed into a telephone pole. A witness called the police department after seeing the crash because the driver was attempting to flee the scene of the accident; however, the caller noted that following the accident the car was stalling and impeding the driver's ability to get very far. When the police located the vehicle, the employee was found sleeping inside the crashed car, blocking all northbound lanes of a major street.

When the officers extracted the employee from vehicle they could smell alcohol and marijuana on his breath and his speech was slurred. The employee told the officers that he had a weapon. A search of the car revealed a loaded gun in the glove compartment; the gun had one round in the chamber and seven in the magazine. A search of the employee's person revealed a bag of marijuana in his pants' pocket. The car had an expired registration. He was arrested. His blood alcohol content was .19, more than twice the legal limit.

The employee pled "no contest" and was placed on summary probation in addition to having his license suspended. However, while he was without a license a supervisor saw him driving out of the Probation Headquarters parking lot—in direct violation of his summary probation.

During his administrative interview the employee again gave false and inconsistent statements. Although he admitted to have been drinking the night in question, he noted the cause for the accident was a bicyclist in his path which caused him to swerve and crash into the pole; this statement was never made to the police on scene. The employee's appeal of the discharge is currently pending.

Out-of-State Misconduct

While off-duty, this sworn employee came into contact with law enforcement twice, failed to report the contact, and then blatantly lied during her administrative interview.

The first contact occurred after the employee verbally and physically attacked three patrons in a restaurant. The employee had been banging on the emergency exit door of a restaurant; these

three patrons refused to let her in. When she finally made her way inside, she immediately confronted the three patrons and physically attacked one of them. Security removed her from the restaurant and called police. Police officers noted she appeared to be intoxicated. At some point during this interaction, the employee called 9-1-1 herself and told the dispatcher she was a Los Angeles Sheriff's officer. She was ejected from the restaurant. Her misconduct was all caught on video surveillance.

Later that same evening at a show, the employee's behavior was so erratic and disruptive that the show literally stopped. Three or four security personnel attempted to coax her to leave; when she refused, security called the police. The employee forced the officers to use physical force to eject her from the theatre. Once outside, the employee collapsed on the floor and refused to walk, requiring the use of a wheelchair to transport her. While in custody she was uncooperative, insulting and mocking several officers. She also attempted to use her position and employment title to her benefit. She was cited for trespassing.

During her administrative interview she unabashedly lied about the circumstances surrounding both instances of law enforcement contact. She claimed she was the victim of the attack at the restaurant and that she left the show upon request and without incident.

Timecard Fraud

An anonymous complaint was communicated to internal affairs informing the Department that three drivers assigned to deliver and pick up court reports from courthouses and area offices were leaving work early and completely disregarding their afternoon routes; and that none of their timecards was adjusted to reflect the hours actually worked. Surveillance revealed that one of the three slept in his car instead of making his afternoon rounds, another left work altogether, and a third left work to go skateboard in the park. The skateboarder (who had previously been demoted for prior misconduct) was discharged. The others, non-sworn employees (who did not have any prior similar misconduct) were issued significant discipline, but were not discharged.

Relationships Inconsistent with Probation Department Employment

Probation Department Manual 617 and Directive 1183 state that,

> "Probation Department employees shall not knowingly establish or maintain any personal, social, or business associations with identified criminal, street, or prison gang members or organizations, incarcerated individuals, registered sex offenders, and/or felons who are on parole or formal probation, unless expressed [sic] written permission is received from the employee's Bureau Chief. The restriction against association does not apply to close family members defined as a grandparent, parent, legal spouse, siblings, or any child for whom the employee is the parent, step-parent, or legal guardian. Within 30 calendar days of return to work for employees on any form of extended leave, or within 30 calendar days of becoming aware of a potential association issue, and as part of the background check process for new hires, employees are to disclose any associations they may have with the above described individuals or groups in writing to their manager, including when those associations involve family members. Employees who fail to disclose associations inconsistent with Probation Department employment may be subject to disciplinary action up to and including discharge from County service. Employees unwittingly within circumstances inconsistent with Probation Department employment, such as locations where controlled substances are illegally distributed or consumed and/or areas where gang members congregate, must remove themselves from these circumstances as soon as reasonably possible. Employees must report such circumstances in writing to their manager within one work day. Employees must also notify their manager in writing if they visit a prison or jail for non-work related purposes. The manager shall notify his or her Bureau Chief and HRMO Performance Management."

This policy was enacted to avoid the appearance of impropriety and to prevent conflicts of interest (for example, if a family member is on formal probation to the Department, then the Department needs to know in order ensure that the employee is not assigned to supervise the family member and does not intervene on that family member's behalf). In 2015, this one policy has given rise to four discharges, a resignation and two separations from employment (for failure to satisfactorily complete the initial (probationary) employment period).

Many employees assume, wrongly, that the father of one's child qualifies as a "close family member." Others assume that all that is required when visiting a prisoner is notification to the

Department, rather than notification *and written permission*. Yet others write letters or send Christmas cards to former minor clients claiming to want to be "encouraging," even though conduct of this sort is forbidden by Department policy.

Father of Sworn-Employee's Children was a Convicted Felon

One sworn employee was discharged when it was discovered she had failed to report that she maintained a relationship with a convicted felon who was on formal probation. The woman was in a romantic relationship with the probationer. He fathered five of her children. The man had been convicted and placed on probation after the woman became an employee of the Probation Department. This information came to light after a citizen complaint was filed against the employee following a physical altercation between her and the complainant. Initially, the employee was uncooperative with the investigation by repeatedly failing to appear for scheduled interviews with Internal Affairs. Ultimately, though, she admitted to the relationship and acknowledged she had failed to disclose the relationship to the Department.

Sworn-Employee met her Husband While He was in Prison

The Department was anonymously informed that an employee had married a parolee. This employee was discharged because she failed to disclose that she maintained a romantic relationship with—and then married—a parolee. The sworn employee met the then-imprisoned individual at a state prison through a relative of the parolee. Over the period of a few months and while employed with the Department, the employee visited the prisoner four times. She did not disclose these visits to her supervisor. Neither prior to nor after marrying the parolee did the employee notify her supervisor about the parole status of this individual. It is alleged that the anonymous phone call was placed by a relative of the victim of the husband's crime that had sent him to prison in the first place. The discharge was appealed.

Sworn-Employee's Boyfriend is a Drug Dealer and Gang Member

Members of a narcotics enforcement team observed a man engage in illicit drug activities in front of and in a motel room. A Department employee was observed leaving and re-entering the same motel room at least twice during a three-hour period of surveillance. When officers finally entered the room (pursuant to a search warrant), the employee was found in the bathroom of the

motel room. The employee did not notify the Department of her law enforcement contact. During an administrative interview, the employee admitted to having a romantic relationship with the drug seller for "a little over a year," but denied knowing about the man's criminal history. This denial was explicitly contradicted when the investigators spoke with the drug seller: he told them that he has known—and dated—the employee on and off for the past fifteen years; his daughter braids her hair; the employee has a picture of the man's son on her Facebook page. This man's criminal history (the majority of it drug-related), spans four decades. He sports tattoos on his body proclaiming his allegiance to a well-documented street gang. The employee never informed the Department of her relationship with this man. The employee appealed the discharge.

Sworn-Employee's Boyfriend was a Sex Offender

This sworn employee informed the Department that she had called the police to report threats made to her by a former boyfriend. During the course of the ensuing investigation, it was discovered that the boyfriend was a Department client, on supervised release from state prison. It was also discovered that he was a convicted sex offender with an ankle monitor tied into a Global Positioning Service (GPS). The employee had failed to inform the Department of her relationship with the boyfriend until the boyfriend began making threats, on social media, toward her. She had also previously failed to report to the police a sexual advance made by the boyfriend toward her seventeen-year-old daughter. The employee claimed never to have noticed the ankle bracelet worn by her boyfriend, despite admitting to sharing her bed with him (she insisted that he always wore pajama pants). The employee appealed the discharge.

Facilitating Delivery of "Love Notes" between Detained Minors

Two probationary employees lost their jobs with the Department after it was discovered that they were facilitating delivery of "love notes" between detained minors. One admitted to being a willing courier for notes written from a boy in one part of a facility to a girl in another part of the facility. The other was observed putting a letter from a girl into her pocket for delivery to a detained boy and then pulling up on Facebook's mobile application a picture of another detained minor's boyfriend and showing it to staff. These separations have been deemed final.

Poor Judgment

"Poor judgment" is a term that is wide-ranging in its applicability: These two innocuous words can belie the most interesting of fact patterns and some of the most egregious policy violations.

One employee was discharged after it was discovered and proven that he had permitted a minor to strip and threaten another minor, whose intake evaluation had labeled him as developmentally disabled. During the administrative investigation, the employee lied and denied any knowledge of the incident. This same employee also permitted a minor (the same one who had stripped and threatened the disabled minor) to access his iPod, enter the staff office, and download music onto the iPod. He allowed this minor to read case note entries in his own file, which led to confrontations between the minor and his caseload officer. He also gave the minor access to confidential files on other minors. Despite multiple witnesses' statements averring to these facts, the employee denied any wrongdoing during his administrative interview.

Part Three

POLICY REFORM and OTHER DEVELOPMENTS

In an organization as large as the Probation Department, maintaining and revising policy is one of the primary methods for communicating expectations to all Department members. As technology continues to evolve, as laws continue to change, policy too must adapt. In addition to OIM's oversight role of reviewing internal affairs investigations for fairness, consistency and thoroughness, OIM also identifies, comments on and recommends policy. Often, these policy gaps are exposed during our review of administrative cases; other times, the gaps are revealed while probing deeper into risk management or systemic issues.

CRITICAL INCIDENT REVIEW

In 2007, under a previous Chief of Probation, the Department instituted a Critical Incident Review Panel. The panel was intended to review and assess incidents[31] that may have had policy implications, either with regards to policy creation, compliance or amendment, or that may have attracted adverse public attention to the Department. That panel was disbanded in 2009 for a variety of reasons including inefficiency as established (reports were completed in approximately 90 days, which was perceived to hamper remedial and preventive efforts), but executive staff

[31] Such as escapes, product recalls, rattlesnake bites, suicides, and major disturbances, to name a few. See Audit Section of this report for a fuller discussion of the creation and responsibilities of the CIR team and panel.

continued to meet regularly to assess any pressing issues, and sometimes those meetings included ad hoc critical incident reviews.

Having reviewed several CIR reports in its audit of escapes,[32] OIM reached out to the Department and encouraged it to re-institute a formal critical incident review process, especially in instances of escapes from institutions and on-duty officer involved shootings. The Department had long recognized the need to continue such a review panel, but had not sat down to craft a new directive reflecting the timing of and role of such a panel.

In 2015, OIM met with the Department and discussed reform of the CIR policy. The proposed draft policy initially contemplated, among other things that the CIR panel (which includes OIM) convene within seventy-two hours of a critical incident. At the urging of OIM, the draft policy also mandates that all escapes from institutions be reviewed by the panel so that potential security, risk management, and other systemic issues (i.e. a broken gate, a hole in a fence, no razor wire, need for staff reassignment) be addressed promptly. This particular recommendation arose from the fact that under the previous policy and since 2009, not all escapes from institutions prompted a CIR review. OIM continues to urge the Department to codify the process.

In April, September, and again in December 2015, the Department had the opportunity to "test" the proposed CIR policy, when minors escaped from a custodial facility (April and December) and when a minor set fire in his room using a contraband lighter (September).

April 2015 Escape

The April escape went unnoticed by detention services officers who had been assigned to supervise the minor and a group of seven others on the basketball courts.[33] The minor managed to scale a fence topped by razor wire and escape. Minors saw him go, but no staff supervising them did. A clerical employee leaving the facility noticed a boy dressed in county clothing walk directly in front of a transportation van, and off down the street. The clerical employee called Movement Control to ask whether or not any minor client of the Department had recently been

[32] See Audit Section of this report.
[33] Despite numerous surveillance cameras in the outdoor space of the facility there was no camera pointed in the area of the yard where the minor escaped.

released, and she was told that no one had been released. She described the minor's clothing and was told that she must be mistaken as there was no record of any release. The driver of the van appeared not to have noticed the minor. The staff member in Movement Control neglected to call for a population count and failed to mention to a colleague seated nearby what the clerical worker had called about. Meanwhile, the minor walked home.

The minor's parents, surprised to see him (knowing that he was supposed to have been detained in the juvenile facility), called the police. The police called the Department. At this time, which was approximately forty minutes after the minor's escape, a staffer in the minor's housing unit noticed that the staffer had one extra shower roll. Only then was a count taken and was it discovered that the minor was missing.

Within seventy-two hours, a critical incident panel (comprising executives/managers from the impacted location, Professional Standards Bureau (Internal Affairs), OIM, and the Chief Probation Officer) was convened. Per the draft policy, an investigator from Internal Affairs presented the facts of the escape, provided a blueprint of the facility, displayed photographs of the possible avenues of escape (as told to him by the escapee minor), video stills, identified potential witnesses and subjects for the administrative investigation. Potential problems with supervision and adherence to professional standards were identified. Facilities weaknesses (window porthole in a door that was topped by a chicken wire fence, warped plywood on a perimeter fence) were also identified and immediately remedied. Administrative details were left to Internal Affairs to investigate. OIM monitored the investigation. The internal affairs investigation has been completed and the Department found (and OIM concurred) that three of the potential six employees identified as subjects failed to adequately supervise the minor, contributing to his successful escape.

September 2015 Escape

In September, another Critical Incident Review was convened for a critical incident that had occurred the previous June.[34] An investigator assigned to Internal Affairs presented the facts of two fires that were set by one detained minor (now adult) in his room. The presentation included

[34] The timing of this critical incident review was driven by the length of time it took for investigators to assemble evidence and conduct fact-finding interviews.

video footage from the facility showing first one fire and then the second (along with the ten minutes in between), a recitation of facts and staff members present at the times of the fires, and a round table discussion about incident. Potential policy violations were identified including staff failing to immediately respond to the fires and evacuate the minor from his room. The CIR panel also queried about broader systemic issues including how the minor obtained a lighter while in custody. OIM continues to have ongoing discussions with the Department about how to better ensure contraband does not find its way into the hands of minor clients.

December 2015 Escape

In early December, at OIM's urging, a Critical Incident Review was convened for an escape that had occurred from a Department facility. Three minors, having been kicked out of school for misbehavior, were sitting on a bench outside the facility's main office when a delivery truck arrived at one of the facility's gates. Unsupervised (except visually through a window), these three minors took advantage of the fact that there was only one probation officer watching the gate and also took advantage of the fact that the gate was slow to open and to close. They ran out through the open gate. The one probation officer was quick to notify other staff of the escape and two of the three minors were re-apprehended within minutes of their initial dash out of the facility; the third minor was found at home the evening of the escape. The CIR was convened and discussions addressed potential individual culpability (which did not appear to be the case here) and security concerns and supervision practices. Now minors who are kicked out of class are separated and closely supervised.

Since the "testing" of the proposed CIR policy, further discussions have taken place about the wisdom of assigning a critical incident to Internal Affairs too early. It was agreed that managers at the facility where an incident occurs should take the helm and conduct a preliminary review of the critical incident before turning the investigation over to Internal Affairs. Facility managers are the "first responders" to an incident since they are on-site and are the initial fact gatherers.[35] They have the most invested in assuring that similar incidents be avoided in the future. Facility directors and superintendents are also the most familiar with the particular institution and can

[35] When an escape occurs, for instance, staff members are required to document where they were when the escape occurred and any actions taken by them and/or others once the minor's absence was discovered. These documents are turned over to Internal Affairs and become part of the administrative record.

provide valuable insight (i.e. potential risk management issues) and historical knowledge to the CIR panel that may not be known to an Internal Affairs investigator. This model was tested in late 2015, when a Critical Incident Review was convened to discuss a racially-motivated occurrence of Youth-on-Youth violence as well as another escape. The managers of the respective facilities led both discussions where the incidents had transpired. Representatives from Internal Affairs were present and the managers informed Department executives, OIM and others of the basic facts, of the problems identified (both practical and theoretical) and the successes (the violence was quashed within two minutes of it erupting, e.g.). The meeting was efficient and productive and convinced OIM that having managers conduct the CIR presentation is prudent.

OIM continues to work with the Department on finalizing the Critical Incident Review protocol, which continues to evolve as critical incidents unfold. The purpose of the CIR review will remain the same—to promptly identify and address systemic issues, policy deficiencies, training needs, potential individual accountability, systems failures and facility vulnerabilities, and to communicate these issues quickly and succinctly to Department executives so that they can respond to questions that may be posed to them by interested stakeholders.

COUNTY OF LOS ANGELES PROBATION DEPARTMENT NOTICE (DRAFT)

This Notice supersedes Notice 1534 (issued 11/8/2007) and is intended to provide guidance regarding timely review of critical incidents. A critical incident is an occurrence (incident) of significant proportion involving the use of deadly force, actual or potential liability, serious injury, loss of life, significant property damage, major disturbances, minor client escapes and suicides and any other significant incident occurring within the Probation Department's scope of responsibility identified by the Chief Probation Officer, Department managers holding the rank of Bureau Chief or above and the Critical Incident Review Panel.

PURPOSE: CRITICAL INCIDENT REVIEW (CIR)
To provide a process for rapid and timely review as well as a forum in which to discuss immediate corrective action. Critical incident reviews enable the Department to focus resources on systemic issues; policy deficiencies; tactics, training; systems failure issues and facility vulnerabilities. Critical incident reviews also allow the Department to control the information disseminated to the public by recommending, when necessary, that the affected Bureau Chief initiate, in consultation with the Department's spokespeople and Chief Probation Officer, a community outreach effort to dispel rumors, correct inaccurate information or address general concerns.

CRITICAL INCIDENT REVIEW PANEL

The Critical Incident Review Panel shall be comprised of:

Chief Probation Officer or designate
Bureau Chief from the impacted location(s)
Bureau Consultants from the impacted location(s)
Director/Superintendent from the impacted location(s)
Bureau Chief from Professional Standards Bureau
Bureau Chief from Professional Standards Bureau
Risk Manager
Office of the Independent Monitor

The facts of a critical incident are presented by an Internal Affairs investigator to the Critical Incident Review Panel so that the Panel can immediately identify circumstances and rectify shortcomings that may have led up to or enabled the critical incident to have taken place.

CRITICAL INCIDENT REVIEW PROCESS

All critical incidents should be immediately referred to Professional Standards Bureau for evaluation. An Internal Affairs investigator will be assigned to handle the collection of information and evidence of the critical incident and be given unfettered access to the impacted locations, the involved minors, witness minors, as well as any witness staff.

The Critical Incident Review Panel shall meet as soon as possible after the Internal Affairs investigator has been able to gather facts, conduct interviews, take pictures, and make diagrams of the scene where the critical incident took place. Absent extenuating circumstances, the Critical Incident Review will take place no longer than **seventy-two (72) hours** after the incident occurs.

The Critical Incident Review Panel shall meet at Downey HQ in the Executive Conference room, unless otherwise indicated.

Based on the evidence gathered about the critical incident, an administrative investigation may be initiated.

POST CRITICAL INCIDENT REVIEW PROTOCOL

The Critical Incident Review is by necessity a preliminary review. Issues identified at this preliminary review may result in issuance of training bulletins/notices; immediate and non-punitive training where tactics/conduct was shown to have been deficient; proposed reassignment (permanent or temporary) of involved personnel; and policy/protocol reform, etc.

UNPAID TRAFFIC CITATIONS

In 2010, a local news station reported that it had uncovered nearly sixteen thousand (16,000) unpaid tickets, all of which came back to law enforcement personnel. The collective amount owing exceeded seven hundred thousand dollars. Two vehicles in particular stood out. One of those vehicles belonged to a sworn Probation Department employee. This employee had sixty-

five (65) unpaid citations, some dating back to 2006. This employee had what is known as a confidential license plate.

Law enforcement personnel are eligible to apply for confidential license plates for their personal vehicles under California Department of Motor Vehicles' confidential address program. Designed to protect the safety of law enforcement officers, the confidential license plate program removes information about the home address of the law enforcement officer from the DMV database. Any citation received by the driver of the vehicle displaying the confidential plate gets mailed to the driver's employer, not to their home address.

The news report brought negative attention to the Probation Department and prompted immediate action. The Internal Affairs Unit was tasked with collecting the notices that were sent to the Probation Department. Investigators contacted employees to remind them about the unpaid citations and to request that they pay the levied fines. In most instances, perhaps because it was a letter from *Internal Affairs*, the tickets were paid in a timely manner.

Sometime in 2013, oversight of unpaid citations shifted away from Internal Affairs and over to Human Resources. Human Resources tracks and logs the number of unpaid citations returning to confidential plates; and they do so on a weekly basis. Information is regularly collected from online databases to determine which citations have been paid and which remain outstanding, since the employees themselves infrequently submit proof of payment directly to the Department.

In 2014, after it appeared that there had been a spike in unpaid citations, Human Resources and Internal Affairs joined forces. A November review of the aforementioned databases revealed that there were three hundred two (302) unpaid citations; some employees had more than one outstanding citation, so this number is not reflective of the number of individuals in the Department who were negligent in payment of their fines. The vast majority of citations were for toll evasion; however, there were also citations for expired registration, expired meter, and illegal parking. The list of so-called offenders was compiled by Human Resources and sent to Internal Affairs. Each offending employee received a notification letter from Internal Affairs and was asked to resolve the unpaid citation. Subsequent letters were sent to the employee if the unpaid citation remained outstanding; but perhaps because there was no prompt administrative

follow-up or perhaps because the employee could ignore the notification with impunity, sometimes even the letters from Internal Affairs failed to result in any corrective compliance. OIM had been urging the Department to create a policy that required employees to "obey all laws, rules, and regulations" which would address this issue (and other misconduct) not memorialized in its policy manual. In May 2015, Directive 1377 codified this recommendation. (See Appendix 2)

Directive 1377 provides that Department personnel who possess vehicles with confidential plates must "remit payment for parking fines and fees" associated with the vehicle. It adds that employees are expected to comply with "all laws, rules, and regulations". Per the directive, notices are sent to both to the employee and to the employee's supervisor. If the citation remains unpaid after the second notice, then administrative action could be taken.

In August 2015, following the issuance of Directive 1377, another tally was taken. This time, the Department discovered one hundred twenty-four outstanding citations; thirty-seven remained outstanding from the November 2014 list; while eighty-seven citations were new.

In November 2015, the number of "new" unpaid citations declined yet again. Of eighty-four outstanding citations, 19 were carry-overs from the August 2015 list, while sixty-five were new ones. The majority of unpaid citations were for toll violations, street sweeping violations, expired meters, invalid registration, and illegal parking. One employee had been cited fourteen times for toll evasion. However, upon investigation, it was discovered that this employee had sold his vehicle to a private citizen and that the new owner had committed all fourteen of those violations.

Since the Department began to regularly issue notices, no discipline has been imposed on those offending employees for failing to comply with the instructions. OIM learned that seven citations reached as far back as 2011, 2013 and 2014 and were now beyond the one-year statue time period permitted to impose corrective action. OIM met with the Department stakeholders and urged the Department to promptly determine the one-year statute date for every case and

ensure that administrative action is taken before that date expires.[36] OIM continues to work with the Department to ensure consistent and prompt resolution of these cases.

Nine citations issued in 2015 remain unpaid; 13 citations from 2016 have not yet been resolved. Although OIM and the Department disagree on the level of discipline to be imposed on the offending employees, there is concurrence that the policy should be consistently enforced and prompt administrative action taken, when necessary. OIM believes that failing to pay parking tickets, taken individually and as an isolated occurrence, may not represent a gross ethical violation; but taken together, continued avoidance of payment reflects poorly on the Department and can chip away at public trust.

The increased scrutiny that OIM has brought to this issue has revealed some of the shortcomings of the current protocol and has caused the Department to consider a revision of Directive 1377. At present, in the first notice, an employee has five days within which to resolve a citation and provide proof of the paid citation. Often, the employee fails to respond to the first notice and a second notice is issued, providing the employee an additional five days to resolve the issue. The Department learned, however, that the time allotted was insufficient for the employee to resolve the matter especially if the employee may not have been aware of the citation in the first place (i.e. if the car was driven by a spouse or other family member when the citation was issued). By allowing some leeway for very real-life possibilities, the modified Directive will give an employee ten, rather than five, days from the dates the notifications are made to address the citation. OIM agreed that the proposed modification is sound and expects that the additional time given to employees to resolve the citations will reduce/eliminate the need for further Department intervention.

The Department is also contemplating giving the employee three opportunities, not just two, to pay the fines. As long as the process is followed and consistently enforced, OIM agreed that the change may be prudent. If, after three notices the employee still has not paid the citation then the employee will be ordered to do so or face discipline for insubordination. Proof of resolution must be received by the Department (thereby putting the onus on the employee to prove

[36] Under the limits imposed by the Peace Officer's Bill of Rights, the Department has one year from the date of discovery of some act of malfeasance in which to impose administrative discipline.

compliance with the order) within thirty days of the order. This means that, essentially, the employee will be allowed sixty days to resolve the traffic citation.

With the current consistent examination of unpaid citations, it appeared that a number of employees may have been abusing the confidential plate privilege. The privilege extends to spouses of employees and children residing in the home; however, the Department had information that led it to suspect that some employees have provided children living *outside* of the home to operate vehicles with confidential plates. Based on this information, OIM agreed that the policy should be revised to mirror the law on this point.

OIM continues to monitor this process and is engaged in ongoing discussions regarding reform of the policy.

NEPOTISM and PERSONAL RELATIONSHIPS

In 2015, two employees (mother and son) were accused of regularly signing in and out for each other (regardless of when they actually arrived to or departed from work). Both employees were caught on video manipulating the sign-in log. The son, a non-sworn custodial employee, was also accused of abrogating his job responsibilities, which included maintaining the facility to which he was assigned. The son could be observed to be leaving the facility hours before the end of his shift and never returning. When other employees would complain about overflowing trash cans, the mother, a clerical employee, would threaten and intimidate the complaining employees, fabricating connections to Department executives. Out of fear, the complaining employees would sometimes decline to further pursue their complaints. The environment at the facility got so bad that some employees took to using toilets in outside facilities because there was no toilet paper and because the women's hygiene containers were overflowing. Vermin were found in the living quarters and exterminators had to be repeatedly called but the waste continued to attract more pests. The son employee resigned before the investigation could be concluded. The clerical employee received significant discipline.

Department policy precludes family members from working within the same unit. (See Appendix 3) Although it was common knowledge that these subject employees were related there was no documented evidence that any effort was made to separate them.

The purpose of the nepotism policy is to prevent conflicts of interest and the appearance (or inclination) of improper decision-making. The policy, however, falls short of addressing conflicts that can arise in non-familial relationships, particularly between a manager/supervisor and a subordinate. In light of this gap in policy and recent adverse media attention related to the allegation that the former Chief of Probation had a personal relationship with a subordinate (which raised speculation about her hiring), OIM proposed the implementation of a policy that would address these potential issues.[37] Similar to the Nepotism policy, OIM proposed that Department employees who develop or become involved in a personal relationship with another employee within their chain of command, must immediately notify their supervisors (Director, Superintendent or Bureau Chief). Upon receiving notification, the unit Director/Superintendent/Bureau Chief shall take appropriate action to ensure that there is not an actual conflict of interest. The Department is currently reviewing the draft policy.[38]

COUNTY OF LOS ANGELES PROBATION DEPARTMENT DIRECTIVE (DRAFT)

Subject: Personal Relationships between Department Employees

Personal relationships between Department employees will inevitably develop within the workplace. The Department respects the rights of its members to associate freely and pursue relationships with colleagues they meet in the workplace. However, it is expected that employees will use sound judgment to ensure these relationships do not have an adverse impact on their job performance, interfere with the performance of their duties, or compromise the integrity of a professional and courteous work environment.

Personal relationships between Department executives, managers, or supervisors and their subordinates can become problematic. The Department takes seriously its responsibility to do all that it can to lessen any potential adverse impact that may occur as a result of personal relationships between superiors and subordinates, including (but not limited to) a perception of unfair, unequal, or disparate treatment; a disruption in the work environment; a reduction in productivity; and/or a decline in employee morale. It is incumbent upon the Department to take appropriate action in order to eliminate these adverse impacts and maintain an optimal work environment for all employees.

It is the responsibility of every employee of the Probation Department to avoid any situation which may create a real or perceived conflict of interest. This is especially true of Department executives, managers, and supervisors, who must ensure their decisions are fair, impartial, consistent, and objective.

In the event Department employees develop or become involved in a personal relationship with another Department employee within their chain of command, both of the involved employees shall immediately

[37] Because the Chief of the Probation Department is appointed by the Los Angeles County Board of Supervisors, they would not be subject to this policy. The Board, however, retains the authority to determine what consequence, if any, is appropriate for conduct it believes is unbecoming the Chief of Probation.
[38] This policy mirrors LASD's policy on the issue.

provide written notification to their respective Director or Superintendent (or Bureau Chief). Although this duty rests with both members of the relationship, it shall be the responsibility of the higher ranking employee to ensure that the unit Director/Superintendent/Bureau Chief has been notified of the relationship. Upon receiving notification, the unit Director/Superintendent/Bureau Chief shall take appropriate action to ensure that there is not an actual conflict of interest. If an involved Department member is a Department executive, s/he shall immediately notify the Assistant Chief (or the Chief Probation Officer, if the employee at issue is the Assistant Chief).

Personal relationships not involving a chain of command conflict are not reportable as a potential conflict of interest under this directive.

In addition to the proscriptions stated above, Department executives, managers, and/or supervisors shall neither directly supervise nor make an employment decision concerning a subordinate employee with whom a close, personal relationship exists.

(Close personal relationships include family relationships (relatives), dating relationships, off-duty business associations, or other circumstances of an unusually personal nature.)

When in doubt about the possibility of a conflict of interest, Department executives, managers, and/or supervisors should err on the side of caution and recuse themselves from the process.

Part Four

AUDITS

In the course of its regular review, OIM receives cases from Internal Affairs pertaining to allegations of negligent supervision. Sometimes the negligent supervision is alleged as a direct result of a successful escape by one or more minors. OIM wanted to take a closer look at escapes in the past three years (2012, 2013, and 2014) in order to analyze them and to determine if it could identify any patterns, trends, or spikes in those. The audit contained in this report reveals what OIM found when it took that closer look.

Also included in this report is OIM's review of discipline cases that were appealed to a Superior Court by either the Department or the subject employee ("writ cases")[39]. OIM conducted a review of these cases to see whether there were lessons to be learned. The facts of the cases, the procedural history and outcomes are discussed herein.

AUDIT of ESCAPES

In 2015, OIM conducted an audit of escapes that occurred from juvenile halls and camps from 2012, 2013, and 2014. In that report, OIM discovered that escapes did not appear to be attributable to one factor; rather, many were opportunistic and even impulsive. Policies and procedures exist in both the Detention Services Bureau (halls) and in the Residential Treatment Services Bureau (camps and Dorothy Kirby Center) that serve to keep minors safe and accounted for. But policies and procedures alone cannot prevent escapes. Many of the boys who escaped

[39] A "writ" is a "Petition for Writ of Administrative Mandamus" which is request that a Superior Court review and reverse the final decision made by an administrative agency (i.e. Civil Service Commission hearing officer).

(and it was only boys) demonstrated great physical speed and agility; others took advantage of distractions or laxity in supervision. Most escapes were only fleetingly successful: one minor was returned to camp even before any staff realized he was missing; another escaped and was caught within ten minutes; a third climbed over a fence, ran to a park, and was apprehended within seventeen minutes. Only one minor managed to elude capture for longer than twenty-four hours (26 days). The following memorializes OIM's review and findings.

Introduction

The Los Angeles County Probation Department ("the Department") is the biggest probation department in the nation. It is also one of the largest County departments, with a 110-year history. The Department employs nearly six thousand people. Its employees run three juvenile detention halls and fourteen juvenile residential treatment camps, serve every branch courthouse, and supervise every adult and juvenile on probation in the County both from Los Angeles courts and from California State Prisons through their thirty-six field offices. Of the approximately six thousand employees, 4,400 are "sworn" peace officers who enjoy the protections of the Peace Officer's Bill of Rights.[40]

The Department has two main arms, one branch supervises adult probationers, and the other supervises juveniles, but not merely juveniles on active probation. The Department is responsible for running and maintaining juvenile custodial facilities. The juvenile custodial facilities consist of three halls and fourteen camps,[41] and are located throughout the vast 4,752 square miles that constitute the County of Los Angeles.

Administered by the Detention Services Bureau ("DSB"), the halls are secure holding facilities, and consist of Central Juvenile Hall near LA County-USC Medical Center, Barry J. Nidorf Juvenile Hall in Sylmar, and Los Padrinos Juvenile Hall in Downey. Minors are housed in the halls during the pendency of their court cases. The length of time it takes for a minor to be adjudicated and then placed determines the length of stay in a juvenile hall. The average time spent in a hall is seventeen days.

[40] The 1977 Peace Officer's Bill of Rights, or "POBR," as it is commonly called, specifies elements of procedural rights that must be accorded to public safety officers when they are subject to investigation or discipline.
[41] There are eighteen camps-plus-Dorothy Kirby Center, but only thirteen-plus-Dorothy Kirby are currently operating. Part of the reason for the closure of some of the camps is number-driven: the population of minors in custody has drastically decreased in the past decade.

Once a case has been adjudicated and sustained, minors are usually transferred to a camp if they are not released to a parent or suitable placement. Administered by the Residential Treatment Services Bureau ("RTSB"), the camps are clustered in northwest and northeast parts of the County, and stays there average nine months. The camps are considered to be a form of residential treatment center for minors. The camps provide work experience, vocational training, education, tutoring, athletic activities, counseling services, and various social enrichment programs.

Staff ratios are mandated in part by state law (a threshold minimum) and in part by internal policies.[42] In broad terms, the current daytime staff-to-minor ratio for both halls and camps is one staff for every ten minors.[43] "Sworn Staff" fill most of the positions that have the responsibility of supervising detained juveniles in the halls and camps. These positions consist of the following job titles: Group Supervisor Night ("GSN"), who works nights both at the halls and the camps (and generally supervises from between fifteen and thirty minors[44]), Detention Services Officer ("DSO"), who works at the halls, and Deputy Probation Officer ("DPO"), who works at the camps.

Staff in these institutional settings manages the group living process. They provide supervision of juveniles while they are eating, showering, using the restroom, moving from one location to another, visiting with family, attending school, enjoying recreation, and participating in counseling activities. They are expected to protect the minors under their care, to act as role models, to provide individual and group crisis intervention, and to prepare paperwork intended to report on the progress of the minors under their care to the courts and court officers. Supervision of minor clients in the institutional setting is around the clock. But despite full-time monitoring

[42] California Code of Regulations, Title 15, Section 1321 mandates minimum staffing ratios for juvenile facilities. Department policy (DSB-206) sets out staffing ratios in the halls, which provides for even more supervision than the state legislature requires. Copies of the policies are attached to this report. OIM noted that there is no RTSB policy setting out staffing ratios. The Department, in turn, pointed out that because staffing ratios at each camp vary (some are 1:9, some are 1:10, others are 1:7), it purposefully omitted staffing ratios from its RTSB policy. OIM has recommended the Department address this issue, and for consistency's sake, at least mirror the policy as set out in the DSB Manual.

[43] This is not the case in all facilities or with all populations. Some minors require one-on-one supervision, and that supervision is provided. Some facilities, because they house a high number of minors with mental illness and/or who are on psychotropic medications, have a higher staff-to-minor ratio than is set out in Title 15 (see footnote above).

[44] State guidelines permit one adult to supervise more minors at night, when most minors are asleep.

of client minors with security measures and safeguards in place, lapses do occur and minors have escaped, sometimes unnoticed, from the facilities.

Escapes from the juvenile custodial facilities are noteworthy incidents because of their infrequency. News of an escape focuses the public eye on public safety and interagency cooperation, and also has the potential to undermine faith in the Department. To better understand the phenomenon and learn whether there were any patterns or systemic issues that caused or contributed to the escapes, OIM conducted a review of the escapes (actual breaches of facility perimeters) that occurred in Probation-run camps and juvenile halls in 2012, 2013, and 2014.[45]

This following is separated into four main sections, beginning with a discussion of how data was collected, followed by the data results, a brief overview of checks and balances internal to the Department, and then an examination of the data and discussion of patterns/themes the data revealed.

We would be remiss to not mention from the outset the unqualified level of cooperation and assistance we received from the Department's leadership as we performed our review. We were impressed by and appreciative of the unfettered access OIM was granted to documents and individuals who took the time to provide their insights into systems, practices, and policies. Their willingness to share their time and their candor on these matters enhanced our ability to identify the issues set out here in this report.

Methodology

The Department maintains a centralized database run by its internal Information Systems Bureau ("ISB"). Any incident that is entered into the Department-wide Probation Case Management System ("PCMS") can be later accessed by ISB and used to tabulate data, examine trends, and predict future numbers. To that end, OIM asked the Residential Treatment Services Bureau (camps) and the Detention Services Bureau (halls) to provide it with data on escapes in 2012, 2013, and 2014, and then asked ISB to run its own report. OIM compared the reports to ensure that the numbers matched up. OIM found that the numbers did, indeed, match. OIM did notice,

[45] OIM did not review foiled escapes, escape plots, or escapes from work crews or transport vans or from any other facility or location, such as a baseball field, an emergency room, a courthouse, or an airport.

however, that the coding of an incident on the preliminary incident notifications ("PINs") varied from reporting party to reporting party. Some PINs were labeled, "AWOL," others were declared as, "Code Green," or "Code Green—Escape," "Escape and apprehension," or "Escape and apprehended," still other reporters populated the data field with "High Alert: Escape." Fortunately, in light of the fact that the report numbers were consistent, the lack of standardization in coding did not appear to affect the ability to mine data from the ISB-maintained databases (so long as one knew which search terms to include in the search field). Although there was no ultimate impact on data gathering, the data gathering process itself was not so straightforward. OIM spent weeks going back and forth with executives asking about escapes. Many conversations took place with current and past Department personnel who informed OIM of the myriad ways to label an escape. Department executives have been apprised of the variety uncovered in reporting an escape. The discrepancy has been noted and, at the urging of OIM, Department executives are contemplating changing that particular field in the Preliminary Incident Notification into a drop-down menu for consistency's sake.

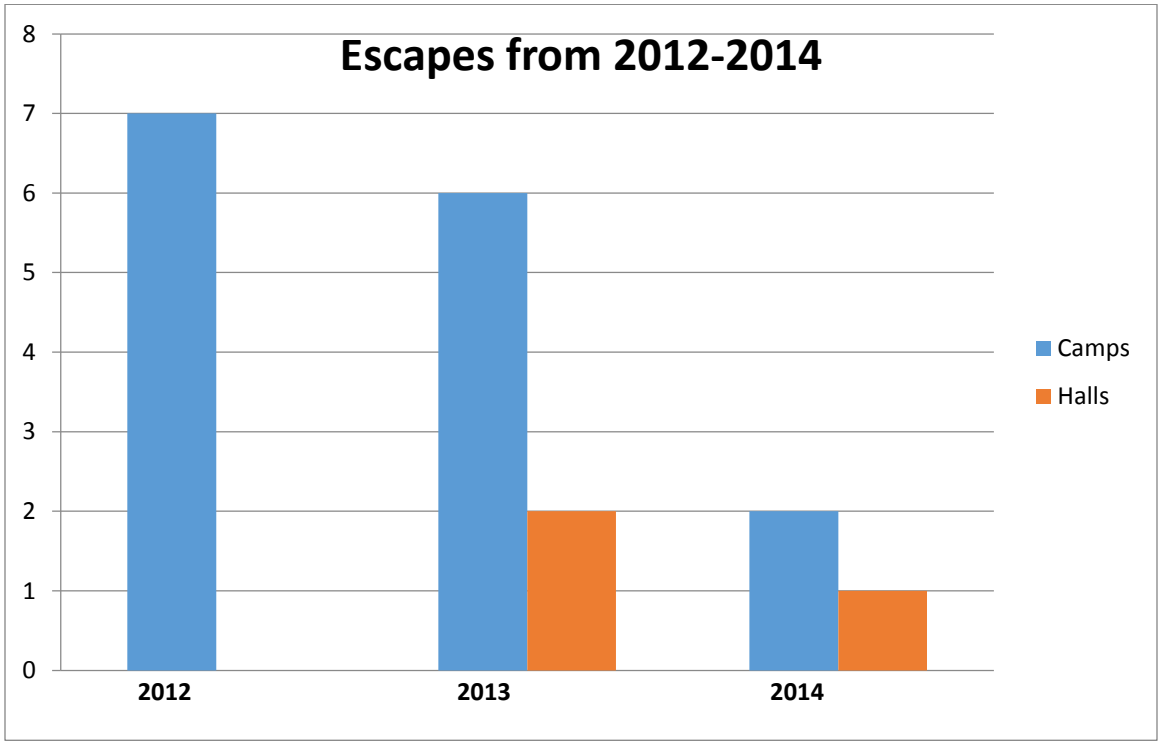
OIM requested similar information from the Professional Standards Bureau, the unit that is tasked with internal affairs investigations for the Department, in order to learn how many of those reported escapes resulted in internal affairs referrals and investigations. We discuss the data on this particular topic later in this report.

OIM met with Department managers to learn more about the hall and camp operations. OIM reviewed the existing policies and manuals particular to the Residential Treatment Services Bureau and the Detention Services Bureau. Attached to this report are relevant sections of the respective Bureaus' manuals, in effect since 2009. Finally, OIM visited several camps to gain a first-hand understanding of the daily operations in the institutional setting.

A Snapshot of the Data

From OIM's examination of escapes from Probation-run facilities during these three years, no one reason for escapes stood out. The review of records and transcripts of interviews with investigators revealed a variety of reasons given by minors for escaping: the boredom of incarceration, wanting to open Christmas presents, opportunity presenting itself, lack of supervision, a door left unlocked, a ladder left unattended, a girlfriend in distress, and family upheaval.

The chart below reflects the numbers of escapes from the juvenile camps as well as from the halls. In three years, there were eighteen escapes from Probation facilities. In 2012, there were no escapes from halls, but seven successful escapes from camps. In 2013, there were two escapes from halls; six escapes from various camps. And in 2014, there were two escapes from camps and only one from a hall.[46]



Clearly, more escapes occur from camps than from halls. In 2012, there were no escapes from any of the three juvenile halls. The precise reason for the lack of escapes from halls is unknown; the reasons are likely many and multifaceted. Minors do not stay long in halls and so may not have enough time to accustom themselves to staff personalities or scheduling patterns. The halls are both processing centers and the gateway into the custodial setting; a minor may take some time for his or her new situation to sink in—and by the time that s/he has, s/he has been transferred out of the halls. Similarly, because of the short duration of their stay, they may not have time to figure out the weak links in the facility or its procedures. Unlike the camps, in the halls, for the most part, each minor has his or her own room and is locked in at night. There is

[46]In 2015, there was one escape from a secure facility. In April, a male minor escaped from Central Juvenile Hall.

very little opportunity for free movement in the halls, let alone movement outside. Lastly, there are many video surveillance cameras in the halls (very few camps have cameras); perhaps this serves as some sort of deterrent to escape. That being said, in 2013, as noted above, two hall escapes were successful; in 2014, there was one. Below, is a description of those successful hall escapes.

The Christmas Escape

During the Christmas holiday, a minor who was on one-to-one supervision, suddenly and without warning, began running away from the probation officer who was supervising him. No other minors or staff were outside at the time. The minor ran across a field toward the gym, climbed up a pole, stepped on the top of an open door onto the roof of the gym and ran across rooftops to a maintenance area. The probation officer was in pursuit of the minor but lost sight of him once the minor jumped on the roof. The minor managed to elude staff by hiding inside of a laundry bin within a locked and fenced maintenance area and when, after a couple of hours, the search party moved to a different part of the facility, he seized his opportunity, found a ladder and a push broom and climbed up and over a 14 foot brick wall and used a sweatshirt to scale over the razor wire-topped fence. A video surveillance camera captured part of the minor's escape but there was no video camera in the area where the minor hid—an area that is not accessed by staff or minors. The minor was apprehended the next morning at his grandmother's house. He told investigators that he wanted to open his Christmas presents at home.

An administrative investigation was conducted and the Department found there was no evidence the probation officer supervising the minor was responsible for the escape. OIM concurred. The staff member was caught totally unaware by the minor's dash to freedom. There had been no sign from the minor that he was planning or desired to escape. The investigation did reveal, however, that, at the time of the minor's escape, the staff member did not have a hand-held radio with which to immediately convey the emergency to other staff. Because of the lack of available technology, the staff member yelled, "Code Green" and got the attention of other staff who also began to yell, "Code Green" and began to assist in the pursuit and search of the minor. To ensure a rapid response to escapes, OIM recommended the Department obtain hand-held radios for staff in the institution. Having recognized the need for these radios (even before this

incident), the Department is in the process of distributing enough so that camp staff at the institutions (and halls) can be adequately provided with radios.[47]

The Rooftop Escape

Similar facts emerged in the second hall escape: a minor was being escorted from one part of the hall to another early in the morning. As he and his escorting DSO exited one building, the minor ran straight for a chain link fence that was visible and accessible between the one building and the next. He climbed up the fence and jumped up onto the roof. The escorting DSO quickly broadcast the "Code Green" and other DSOs responded to try to keep the minor in sight. The minor ran along one rooftop, jumped onto another and from that roof climbed up and over the perimeter fence. He used his sweatshirt to protect himself from the razor ribbon along the top. Local police apprehended the minor a short time later. Since this escape, anti-climbing mesh has been placed along the chain link fence and additional razor ribbon added to the tops of the perimeter fences. The case was never referred to Internal Affairs.[48]

The Hour-long Escape

During movement early one morning, a minor managed to climb over the fence encircling the Hall. Emergency notification was promptly issued and within the hour, the minor was discovered in a nearby park, without his Probation-issued sweatshirt but nevertheless attracting the attention of a Department staff searching for him. He was detained and returned to the facility by the end of breakfast. This case was referred to Internal Affairs but was not investigated.

When OIM embarked on its review of escapes, it did not know what it was going to find. The idea was that by assembling all of the information in one place, perhaps patterns or trends would emerge, and/or systemic strengths or weaknesses would be revealed. In the end, although we did notice recurring themes, there were no glaring warning signs. Anecdotal phenomena, however, emerged from the three years surveyed: No female wards escaped from any of the institutions;

[47] To date, radios have been purchased and are being tagged for record-keeping purposes before being distributed. Already, some of the facilities are in possession of their allotment of radios. The number of radios provided to each facility will enable every on-duty employee to have access to a radio. Similarly, sufficient back-up inventory will be provided in case of malfunction.

[48] Later in this report we discuss, in detail, the referral and investigative process.

there were no repeat escapees; and in the three year period no one escaped from Camp Gonzalez, Camp Mendenhall and Central Juvenile Hall.

In 2012, OIM noticed a cluster of escapes in the summer months. In 2013, all of the escapes from Camps occurred in the afternoon and early evening. In 2014, the escapes occurred in the middle of the day. There was no evidence that escaped minors claimed the same gang affiliation. Unlike in an adult jail setting, there was no evidence that minors in different facilities communicate with one another to effectuate escapes. Of the eighteen escapes, seven were "buddy escapes," that is, two minors escaped together. The majority of escaped minors were found and returned to Department custody within hours, sometimes even minutes, of their escapes. A few managed to elude capture for twenty-four hours. Only one minor, in 2012, managed to stay missing for longer than that: he was missing for 26 days before he was located—at his mother's house.

One Department employee has been a subject of internal affairs investigations in three separate escapes, although his culpability has varied. No other Department employee has appeared repeatedly in escape investigations. In one escape (2012), two minors escaped, unnoticed, by exiting through an unlocked (broken) dayroom door. Once outside the minors used a portable basketball stand to climb onto the roof and jumped over the security wall. Within 24 hours of the escape, the lock was fixed and the movable basketball hoop removed. The minors were caught approximately 24 hours later by a local police agency. The Department conducted an administrative investigation and OIM agreed that the evidence gathered was insufficient to prove the employee was responsible for the escape since he was not assigned to supervise the dayroom at the time the minors escaped. Another DPO was found to be at fault for the lapse.[49]

The other two cases were substantiated against the employee. In the first substantiated case (2013), two minors were noticed missing when a count was taken at the dining hall. A search was promptly conducted and minors were observed hiding inside the gated pool area. Upon being discovered, the two minors climbed over the fence and escaped. They were apprehended a couple hours later by law enforcement officers. The employee (and a fellow employee) admitted

[49] This DPO had left his area of supervision and claimed that he had asked the other employee to keep an eye on his minors. The employee, for his part, claimed never to have been asked. His claim was supported by evidence that after the escape, the DPO apologized to the employee (also a DPO) for not having alerted the employee to the DPO's absence.

in their administrative interviews that they were responsible for the minors in the dorm during the critical period and explained they failed to notice the missing minors because there was so much movement at that time and the dorm was "chaotic." They were both issued discipline.

In the second substantiated case (2014), a minor, who had been identified as an "AWOL risk" for previously escaping from placement, managed to ease out of a classroom without the teacher noticing. The minor returned to the dorm and told the employee that he had been suspended from school (which the employee never verified) and sent back. The minor then took advantage of a moment when the employee was distracted and slipped out of the building, onto the blacktop and escaped over a fence, without detection. The minor was apprehended several hours later. The Department issued significant discipline (notice of intent to discipline) for the employee's negligence. The employee has appealed the discipline. Final discipline has not yet been imposed.

OIM brought this employee's track record to the Department's attention and it has agreed to provide the employee with additional training which focuses on "pro-active" supervision and optimal decision making. The Department has also agreed, at OIM's urging, to pair the employee with a mentor supervisor for a period of time.[50]

Internal Review Process

A. Critical Incident Review Team—Past and Present

In 2007, the Department instituted a Critical Incident Review Team to review critical incidents and provide recommendations to the Department. The CIR Team was part of the Quality Assurance Services Bureau and consisted of three investigators, one program analyst, and a supervisor. The creation of the Critical Incident Review Team was an effort to improve the operations of the Department, as well as to influence Department policy. For the purpose of OIM's audit, we reviewed a random sample of the CIR reports that were generated and learned about the process. We also interviewed three former members of the Team for further clarification.

A critical incident as originally defined was "an occurrence of significant proportion involving actual or potential liability, serious injury, significant loss or major conflict occurring within the

[50] This has already taken place and the individual has been matched with a supervisor.

Probation Department's arena of responsibility." Escapes were considered "critical incidents." Some situations other than escapes also triggered critical incident reviews (like product recalls, union issues, rattlesnake bites, attempted suicides by minors, systematic fraud perpetrated on the Department or by Department employees, etc.[51]); however, every escape triggered a critical incident review.[52]

A CIR was neither a disciplinary investigation nor an audit of any person or operation within the Department. Individual accountability was not assessed through this process. A CIR involved the review and assessment of an incident in order to establish whether the Department had policies at the time of the critical incident that appropriately directed the activities of staff before, during, and after the incident. CIRs were also completed in an effort to determine appropriate training needs, all of which were aimed at diminishing the likelihood of a similar critical incident re-occurring. A CIR made findings and recommendations. The production of CIRs was part of a continuous systems improvement effort that sought to learn from critical incidents in order to improve performance. The Team went to each facility at which an escape occurred and conducted its own investigation: inspecting the facility, interviewing witnesses and directors, and speaking with the involved minors, if they had already been apprehended.

Based on its examination of a critical incident, the CIR Team produced a written report that indicated whether:

- There was existing policy relevant to the incident and that policy was adhered to, and effective.
- There was policy relevant to the incident, or a portion thereof, and that policy requires modification.
- There was no policy relevant to the incident, or a portion of the incident, and the creation of new policy is required.
- There was existing policy relevant to the incident, or a portion thereof, and that policy was not adhered to, which may have required the training or re-training of staff.

[51] In the current iteration of the policy, incidents defined as critical will include: (attempted) suicides, major disturbances (sometimes called "race riots"), and AWOLs or Escapes.
[52] Some of these escapes reviewed by the CIR Team occurred from transportation vans or fire crews, so the numbers reflect a wider variety of escape than does this report.

- There were structural issues that needed to be immediately addressed.

Once the report was completed, a panel of executives was supposed to have met and discussed the findings and recommendations. It is unclear whether this part of the process was consistently followed in this order.

As the evaluative process unfolded, Department executives realized that the process put in place for report, review, and revision took too long. The CIR Team reports often took nearly four months for presentation to interested parties; long before that, weaknesses had been identified and corrective action implemented by the facilities where the escapes had occurred. Nevertheless, the Team and its reports identified policy gaps and facility needs. In cases where the shortfalls had indeed already been discovered by the particular facility, the issuance of a formal report memorializing the weaknesses enabled the Department to avoid similar weaknesses from cropping up system-wide. OIM found the CIR Team reports to be thorough, thoughtful, and well organized.

The CIR Team stopped reviewing new critical incidents in 2009, although its members were not formally reassigned until early 2011. The reason for the dissolution of the CIR Team and the cessation of critical incident reviews appears to have been related to personnel reassignment as well as the desire for more efficiency in the review process.

Since then, the Department has proposed streamlining the Critical Incident Review process to make it more valuable for the involved facility in particular and the Department as a whole. The Department has been proactive in reforming the review process and continues to involve OIM in these discussions. The current proposed policy has been provided to OIM and OIM has provided feedback to the Department. As part of its role, it is proposed that a Critical Incident Review Panel (comprised of Department managers/executives) will meet quarterly to review investigations of critical incidents that have occurred in the past quarter and "provide executives with a rapid, concrete basis for corrective action and clear guidance to Camp or Hall managers." Some of the findings may give rise to the design of future training modules for camp and hall staff. The Department has agreed with OIM that all escapes should be vetted through the CIR process.

In addition to quarterly reviews, OIM recommended, and the Department agreed, that the designated CIR panel members (managers/executives) should convene within 72 hours of an escape in order to promptly identify and address potential security, risk management and other systemic issues i.e. a broken gate, a hole in a fence or reassignment of a staff member. In point of fact, a critical incident review was conducted on the escape that occurred from Central Juvenile Hall in April, 2015. The facts were presented by an internal affairs investigator who had taken photographs and interviewed as many witnesses as he could, to the Chief and other Department stakeholders. OIM also participated in the discussion where issues were identified and corrective measures ordered.

B. Internal Affairs Investigations

Where a CIR review focused on an examination of policies and training, an internal affairs investigation focuses on individual accountability, i.e., employee misconduct or negligent supervision.

An internal affairs investigation for an escape is usually triggered at the instigation of a Director or Superintendent, who, after reviewing paperwork or videotape or witnessing an incident, believes that further investigation is warranted. In those investigations, like other cases, internal affairs investigators conduct extensive interviews with witnesses and subjects. They often learn information about an escape that greatly assists the facility director in preventing future escapes. Usually, though not always, the minor is very proud of his accomplishment and happy to talk about exactly how he escaped. It is from the minors that the Department learns of a gate left unlocked, a door that is never locked, an employee's tendency to get distracted, or a fence that is easy to climb. Similarly, witness minors who would not have "snitched" on fellow minors beforehand are happy to let an investigator know that, "Yeah, he had been talking about AWOL'ing for days before he finally did it." Or, "I saw him walk by and he told me he was gonna AWOL, and I watched him climb over the fence. After he was gone, I went and told the SDPO." Subject interviews are also helpful because employees often raise potential training, policy, or security issues. As part of OIM's oversight role, it reviews all completed internal affairs investigations to ensure that they are thorough, fair and timely. In cases where the evidence establishes a violation of a Department policy or that an employee has fallen short of Departmental expectations, OIM provides input regarding the appropriate level of discipline.

During the review, OIM discovered that of the eighteen escape incidents fifteen were referred to the Department's Internal Affairs Unit. It is unclear why not all escapes are referred to Internal Affairs and there is no record of when, why and who made the decision not to submit the incidents to Internal Affairs. OIM conjectures that a possible reason may be the following: if, at the onset, it seems from the circumstances that there was no apparent evidence of any policy violation by any specific employee(s) (i.e. supervised minor suddenly flees and jumps fence), then a decision may have been made by a manager/executive to not refer the case to be investigated and the case was closed with no action.

OIM also discovered that of the fifteen cases referred to the Internal Affairs Unit only eleven were investigated. OIM reviewed all eleven escape investigations conducted between 2012 and 2014 and commented on the thoroughness of the investigations as well as opined on the appropriate level of discipline for the cases where an employee was found to have been responsible for the escape. In eight of those investigations, employee/s were held accountable for failing to adequately supervise minor/s and failing to prevent an escape and were disciplined.[53]

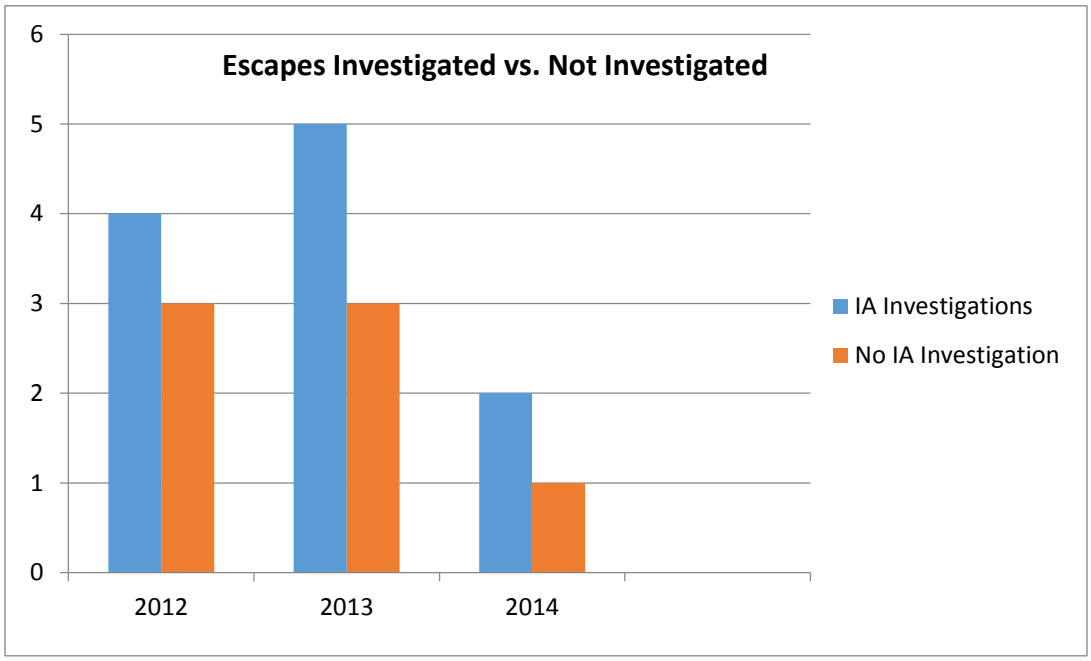
OIM also learned that the remaining four cases that were referred but not investigated were triaged by the Internal Affairs Unit and sent back to the facility for its own review. In this situation, the Internal Affairs Unit, having reviewed the available documentation and video, if available, made a determination that there was insufficient evidence to conduct an investigation and sent the case back to the facility; at this juncture within the Internal Affairs Unit, the case was considered to have been closed.

To the Department's credit, when OIM shared this information, it agreed that all escape cases should be referred to and investigated by Internal Affairs and acknowledged that failure to investigate an escape case was a missed opportunity to learn about issues that may not have otherwise been immediately identifiable from documentation or video. For instance, although it

[53] OIM concurred with the Department's substantiated findings in three of the four escapes in 2012. OIM did not agree with the investigator's findings in the other case because it found the investigation to have been incomplete (i.e. other staff could have been identified as subjects). In the escapes that occurred in 2013, OIM concurred with the Department's substantiated findings. In one 2013 case OIM encouraged the investigator to broaden the scope of his interview of subjects, but that recommendation did not impact the ultimate finding in the case. For the 2014 substantiated cases, OIM was consulted in both and concurred with the Department's findings.

may be apparent, based on the available testimony, that a probation officer could not have prevented a minor from suddenly fleeing and scaling a fence, there may have been post-escape protocols that may not have been followed, i.e. failure to pursue the minor, failure to adequately organize a search team within the facility and/or failure to promptly notify staff or outside agencies of the escape.

The chart below sets out, by year, how many escapes were investigated by Internal Affairs as compared to escapes were not. In 2012, four escapes resulted in internal affairs investigations; three did not. In 2013, five escapes were investigated by Internal Affairs; three were not. In 2014, two escapes triggered scrutiny by the internal affairs unit, one did not: no record was found of one of the hall escapes in logs maintained by Internal Affairs, although RTSB has a record of the referral having been declined.



Of the seven cases not investigated by Internal Affairs (not referred or IA declinations), OIM possesses somewhat limited knowledge of the facts. The Department maintains records of the preliminary incident notifications and OIM obtained and reviewed those Preliminary Incident Notifications (also known as "PINs"). The following is the information OIM gathered about the circumstances of those incidents.

1. 2012 Escape Incidents Not Investigated by Internal Affairs

Roll Call Cases

On two separate occasions in 2012, an employee noticed that the population count at one of the camps was "not clearing." Roll call was taken in the dorm and it was discovered that a minor was missing.[54] The earlier case was never referred to Internal Affairs; the latter case was referred but declined by Internal Affairs. Although Internal Affairs found that the preliminary investigation revealed evidence that Department staff should have exercised more proactive supervision of the group, it inexplicably determined there was "insufficient evidence" to elevate the case to a formal investigation.

Minor-with-Marijuana Case

In mid-2012, a minor was caught smoking marijuana and told to go inside. He refused and a staff member gave him permission to take some time to "cool off." At 3:30 p.m. he began his cooling off period and sometime between 5:00 and 6:00 p.m., his absence was discovered (it is unclear from the evidence gathered who it was that realized his absence). The facts as described in the preliminary notification seem to imply that the minor was supposed to have been under visual observation by a named staff member in the office between 3:30 and 5:00 p.m. and then a different staff member from 5:00-on; nevertheless, no fault was assigned and there was no record of a referral to Internal Affairs.

2. 2013 Escape Incidents Not Investigated by Internal Affairs

Open Gate Case

In early 2013, a familiar fact pattern emerged in a successful escape from one of the other camps: when population count failed to clear, a roll call was ordered and the escapee-minor was found to be missing. The minor had left his dorm (with permission) to go to the administrative office. On his way there, he noticed a gate was open and took the opportunity to leave.[55] About three hours

[54] No employee was mentioned in the reporting of the escapes, and OIM does not know if any individual was later identified as having been "responsible" for the escape.

[55] Three or four times a day deliveries are made to this particular camp. The delivery vehicles drive through a large gate that has a ten-second delay. The minor who escaped took advantage of one of these openings to leave. Since then, camp staff is stationed near the gate every time it opens. Throughout the day, minors are verbally directed away from the perimeter of the camp.

later, a local law enforcement agency found the minor walking on a canyon road in the vicinity, but several miles from the camp locale.

The "Ten Minute" Escape Case

In May 2013, a minor who was being supervised one-on-one suddenly, and without warning, ran away from the supervising probation officer. The probation officer immediately gave chase, but the minor was too fast: he scaled a perimeter wall, climbed over the barbed wire, cutting himself in the process, and ran away. He was apprehended four blocks away and ten minutes later by two staff members. He was transported to the hospital and received sutures for his lacerations. Internal Affairs declined the referral on the basis that the facility was unable to show that protocols had not been followed or policies had been violated.

The Sprinter Case

As mentioned previously in this report, a minor who was being escorted from one housing unit to another at a juvenile hall suddenly ran toward a gap where part of the perimeter chain link fence was visible. He climbed up, disregarding the razor ribbon, jumped onto a roof, and ran. A Code Green was broadcast to all staff. The minor navigated his way onto another rooftop and from there, climbed up and over another part of the perimeter fence, using his sweatshirt to protect himself from the razor ribbon. He managed to get away before any staff could stop him. He was returned to the hall shortly thereafter by local police. Internal Affairs has no record of the case having been referred.

3. 2014 Escape Incident Not Investigated by Internal Affairs

The Hour-long Escape

As mentioned earlier in this report, this 2014 escape occurred one morning when a minor climbed over a fence while moving from one part of the facility to another, in the company of another minor. The escapee minor was apprehended within the hour and promptly returned to the facility. The case was referred to Internal Affairs and declined. As the escape highlighted a structural issue (anti-climbing mesh did not extend far enough down the fence to prevent handholds and footholds), the facility positioned extra staff at the fence until maintenance could fix the problem.

Other Patterns/Themes

A. Count and Movement

In conducting its audit, OIM sought to identify any repeating patterns worthy of further examination. Upon reviewing the facts of the various cases, OIM noticed that keeping track of the number of minors present in a facility was a continuous and ongoing task for all staff. When protocols weren't followed—or where no protocol was in place—minors recognized the lapses and seized the opportunity to escape. The Department recognizes that routine population counts, along with close and active supervision, should be more firmly modeled and encouraged in order to harmonize supervision policy with the daily practices of Department staff.

Residential Treatment Services Bureau ("RTSB") policy 1204 sets out the Department's expectation for proactive supervision in the camps. Proactive supervision envisions staff as active participants in supervising camp wards so as to avoid, identify, and address problematic situations. Proactive supervision includes "conducting scheduled and impromptu population counts in **all** locations throughout [a] facility" (original emphasis). RTSB policy 1209 makes it clear that regular population counts are an "integral component of camp supervision" and dictates that "[p]opulation counts shall be conducted after each major line movement…" and "shall also be taken at the beginning and end of each activity." These policies recognize that "[t]he daily schedule [at camp] is replete with high-risk periods, such as school movements, showers, late dorm and recreation, when a problem might occur and escalate quickly" (RTSB 1206). RTSB Section 1311 sets out the procedures expected of camp staff in order to maintain a "safe and secure" environment, both for the staff and for the wards under their care. One of these procedures is conducting physical counts at the "onset of each activity and movement." Policies are in place to establish procedures; however, just because policies exist does not mean that they are always followed. Department executives recognize this reality and are currently designing training modules[56] to impress upon camp staff and managers the reasons for policy by providing illustrations of what happens when policy is not followed. DSB has similar policies.

The following are case examples of where movement and failure to take count played a role in an escape.

[56] One of the courses being designed is to be a 6-hour course, entitled Institutional Basics, and will be required of all current and future employees as part of Juvenile Corrections Officer Core Training.

The Blacktop Case

Two minors escaped from a camp in early 2013. They managed to escape during movement from a dorm to an outside blacktop area. The DPO who ordered the unscheduled movement failed to station staff on the blacktop to receive the minors. So, when the minors began exiting, they quickly observed that there was insufficient staff at the other end. The two minors managed to slip unnoticed between two buildings and from there pushed open a drive-thru gate that led to the outside. No count was taken prior to the movement outside; no count was taken on the blacktop. Back inside the dorm, the Alpha wing minors were not counted and for thirty minutes, one of the two minors' absences went unnoticed. The Bravo wing minors were counted both before movement and after returning to the dorm; in this instance, once the probation officer in charge of the group realized that the *other* of the two minors was missing, she failed to promptly notify anyone.

Movement and counts frequently go hand in hand. OIM discovered that some escapes occurred during movement, which was no great surprise, considering the number of moving parts within the juvenile custodial setting. In the escape mentioned here, for instance, minors from different dormitory wings escaped the premises during an inadequately supervised movement to the blacktop. Due to the chaos, their absence went unnoticed for 30-45 minutes.

The Bathroom Case

Two minors escaped from a camp in 2014 because a Department employee failed to count the minors under his charge. In this instance, the employee was assigned to take a classroom of minors from school to the bathroom. He did not count the minors who exited the classroom and formed the line. At the bathroom, some minors used the toilets, others did not. The Department employee did not count the number of minors in the bathroom, nor did he count those that remained outside. When the minors were finished, again, no count was taken. Two minors, planning an escape, remained behind, crouching down behind the sinks. Because the Department employee did not clear that bathroom, and because he had failed to keep track of how many minors he was moving to and fro, their absence was not noticed, and they were subsequently able to walk out of the bathroom, open up a gate that had been left unlocked, pry up the perimeter fence, and escape.

The Hall Pass Case

In this 2014 case, a minor had told a Department employee that he had been suspended from his class and therefore did not need to return to the classroom after a bathroom break.[57] The DPO neglected to ask the minor for verification, essentially a hall pass (the DPO's excuse being that this particular minor was suspended every day from class), and allowed him to remain in the dorm.[58] Somehow, this same minor managed to avoid detection by the school liaison officer and his teacher, none of whom noticed his absence when his class returned to its classroom. The minor subsequently escaped by slipping out of the dorm without being observed by the DPO or the dorm's assigned teacher (yet another Department employee), walking out to the blacktop, and jumping over the fence. After the escape, a practice of mandating counts before and *after* each movement and setting out the schedule for each movement was instituted at the camp.

B. Negligent Supervision

Negligent supervision was another reason for escapes. Department policy recognizes the roles that vigilant supervision and conducting frequent population counts play both in reducing the risk of an escape;[59] but not all Department staff consistently maintains the level of vigilance necessary to avoid problems and prevent escapes. Perhaps there is no way to avoid all escapes. Written policies may appear to anticipate all possible avenues of escape and encourage vigilance of all staff, but there will always be some minor who wants to run; there will always be a juvenile whose agility completely outstrips that of any staff member, no matter how vigilant. And, in some of the escapes, as we have discussed, Department staff lowered their vigilance, either in supervising minors or in ensuring that the camp or hall perimeters were properly secured.

C. Security Issues

Security of its facilities is of great concern to the Department, a concern reflected in its policy and procedures manuals. Department policy encourages staff assigned to conduct the daily perimeter check to regularly check for unlocked doors. Gates, ropes and ladders along the fence

[57] In camp parlance, 'head call.'
[58] Note: this is the Department employee, referred to earlier in this report, who has repeatedly been the subject of internal affairs investigations.
[59] RTSB-1215

line should be properly stored. Similarly, staff "should" also check for property damage and inoperable lighting. OIM has found, however, that there is occasionally a disparity between written policy and common practice, or the policy merely encourages a behavior, pattern, or practice rather than mandating it (see above: "Staff *should*…"). Department executives are also aware of this disparity and are seeking to institute a more robust and consistent messaging system to Department employees.

From what OIM has observed, strong leadership at a facility often serves to close the gap between what the Department recommends and what the Department actually does. At one of the camps, for instance, additional security measures have been taken to ensure the safety of the minors and to reduce the risk of escapes. There, regular perimeter checks are conducted, minors drop to one knee any time the delivery gate opens, and razor ribbon in formations have been placed on fences making escapes more difficult.[60] OIM has recommended that implementation of similar security measures be accomplished Department-wide.

Despite policies and procedures in place, lapses do occur and sometimes those lapses facilitate escapes. For instance, in 2012, minors were able to run out of a dorm whose doors were unlocked, even though it was around midnight. The minors carefully planned their escape, lying fully dressed under their sheets and waiting for the opportunity to run. They grabbed their bed sheets, which made the DPO in the control center think that they were being re-housed due to misbehavior earlier in the day; so she did not stop them. The minors were able to walk through the doors outside, where they ran for the fence and escaped. That same year, minors walked out through an unlocked door at a camp when left unsupervised. They told investigators that they knew that particular door did not lock; staff witnesses confirmed the lock's inoperability. Immediately after this escape, a deadbolt was installed on this door and a padlock installed on the deadbolt. The other issue that contributed to the minors' escape was the presence of a basketball "apparatus," in an infrequently used recreational area. The minors were able to climb

[60] This camp sits up on a hill. The facility is encircled by a cinder block wall, parts of which are topped with razor ribbon. Before 2011, some associates of minors detained at this camp discovered that an electrical structure on the outside of the wall could be useful for an escapee: if a rope were thrown over the wall to the inside of the camp from the vicinity of the electrical structure, there was a much shorter drop from the top of the wall to freedom. The Director asked that this portion of the wall be topped with razor ribbon and that the razor ribbon drop down inside the part of the wall that backed on to the metal utility structure; this was done almost immediately. There has only been one escape from this camp in the last three years and it was due to a DPO getting distracted by his cell phone and relaxing his vigilance.

onto the apparatus, and from there scale the wall and jump the fence. That basketball "apparatus" has been removed. In 2013, a minor walking unescorted through a camp noticed an opening in a side gate and walked out. Also, as discussed earlier, at one of the halls, the escapee minor found a ladder and a broom left lying around that he used to get himself up and over the fence, using his sweatshirt to protect himself from the barbed wire.

However, as these escape incidents demonstrate, lapses in security measures are often the result of common practices that deviate from the established policy: policy is one thing, practice another. To prevent future escape incidents, consistent emphasis on adherence to Department supervision policies, as well as identifying weak links in security will serve the Department well in its goal to keep the juveniles under its care safe and accounted for.

Recommendations

OIM recommended that the coding of an escape incident in the Department's centralized database be standardized so that data can be easily mined for purposes of tabulating data and examining trends. *The Department is contemplating changing that particular field into a drop-down menu for consistency's sake.*

OIM recommended the Department continue to update communications technology (such as handheld radios) and make it available to camp and hall staff. *The Department recognized the need for these radios and acquired them. The Department is in the process of distributing enough so that all camp and hall staff can be adequately provided with radios.*

OIM recommended that the staff member who was the subject of internal investigations in three separate escapes be provided with additional training and mentoring. *The Department agreed to provide the employee with additional training which focuses on "pro-active" supervision and optimal decision making. At OIM's urging, the Department paired the employee with a mentor supervisor.*

OIM recommended that all escape incidents be vetted through the Critical Incident Review process. *The Department agreed that CIR scrutiny of escape incidents is appropriate.*

OIM recommended that, in addition to quarterly Critical Incident reviews, designated CIR panel members (managers/executives) should convene within 72 hours of an escape in order to

promptly identify and address potential security, risk management and other systemic issues i.e. a broken gate, a hole in a fence or reassignment of a staff member. *The Department agreed that a CIR review within 72 hours of an escape incident is useful and, in fact, conducted such a review of the 2015 escape from Central Juvenile Hall.*

OIM recommended that all escape incidents be referred to and investigated by the Internal Affairs unit. *The Department agreed that escape incidents warrant full administrative investigations and that a complete investigation may reveal policy violations, security issues, etc. not immediately identifiable from documentation or video.*

OIM recommended the Department add a section to the RTSB Policy Manual to reflect state and federal guidelines for staffing ratios in the camps. *The Department is aware of the omission and is planning to make the appropriate policy revision.*

Conclusion

We are encouraged that the Department's willingness and proactive approach to promptly act on the above-recommendations will help reduce the number of escapes from its institutions and increase the effectiveness with which it accomplishes its mission.

WRIT CASES

A "Petition for Writ of Administrative Mandamus" ("writ") is a request that a Superior Court review and reverse the final decision made by an administrative agency (i.e. Civil Service Commission[61] hearing officer[62]). The writ is not a request for a new trial or hearing on the matter. Instead, the petitioner of a writ, which can be either the Department as an entity or an

[61] The Civil Service Commission ("Commission") serves as the quasi-judicial appellate body for County employees who have been disciplined, *i.e.*, discharged, demoted, and/or suspended in excess of five days. The Commission also hears appeals of employees who seek to challenge a hearing officer's decision. The Commission is comprised of five (5) Commissioners appointed by the Board of Supervisors.

[62] The Los Angeles County Civil Service hearing officers serve as the "trier of fact" and preside over disciplinary hearings. At the conclusion of a hearing, the hearing officers submit reports (decisions regarding discipline, etc.) and recommendations for the Commission's consideration. If the Commission adopts a hearing officer's disciplinary recommendation, any party can challenge the proposed decision and file objections. After all parties have been provided an opportunity to submit objections and present to the Commissioners, the Commission renders its final decision.

employee as an individual, requests that the court review the administrative proceedings to ensure that the hearing officer proceeded in accordance with the law, the hearing was fair, that the decision is supported by the evidence, and the hearing officer has provided factual support for their findings. Procedurally, it is the final legal remedy available to a petitioner who seeks to challenge a disciplinary decision. If, for instance, an employee was discharged by the Probation Department and the discharge was upheld by a hearing officer and adopted by the Civil Service Commission, the employee could file a writ with the Court challenging the final decision. The same remedy is available to the Probation Department.

OIM decided to conduct a review of recent writ cases to see whether there were lessons to be learned and to determine, after a writ was adjudicated, whether the Department prevailed. The following are examples of writ cases filed in the last couple of years (either by the employee or the Department) and a discussion of the outcomes.

In several instances in 2015, the Court returned the case to the Civil Service Commission for clarification of the Commission's findings. The Court could not reach a conclusion as to whether the Commission had made a legally improper or unfair decision because the Commission had failed to sufficiently and specifically articulate the basis for its decision. In these cases, the Commission was ordered to state its reasoning more fully which engaged the parties in another round of written objections and oral argument. After this process, reformulated findings were sent back to the Superior Court which entailed further delay—delay that serves neither the Department nor the employee and might have a chilling effect on future decisions to take writs challenging the Commission's findings. Avoiding this lengthy extra step has a straightforward solution: requiring more explicitly-articulated written findings from the Civil Service Commission.[63] OIM has recommended that the Department discuss this matter with the Commission and its staff and seek to reach an agreement over what should constitute indispensable elements of a written finding issued by the Commission.

Department Prevails But Commission Upholds Discipline Reduction

In 2008, a sworn employee escorted five minors to the on-site medical unit to be seen by staff for various medical issues. The minors were handcuffed and their legs were shackled for safety

[63] The Commission has changed throughout the years. The current Commission is not the same Commission that presided over the cases discussed here.

reasons. While at the medical unit, a minor (still handcuffed and shackled) and the subject employee engaged in a verbal exchange which escalated to a physical incident. A nurse observed the subject employee repeatedly lift the minor up off the floor and slam him down. The minor sustained abrasions on his face, body, abdomen, and back. An administrative investigation was initiated and, per Department Directive 1211 "Employee Cooperation Related to Administrative Hearings and Departmental Investigations," the subject employee was instructed to not discuss the case with anyone involved directly or indirectly with the case. Directive 1211 states, in pertinent part,

> *Employees who participate in the investigative process should do so free from any improper influence. Therefore under no circumstances shall an employee contact another employee for the purpose of interfering with their cooperation or participation in this process. This admission extends to prohibit any such contact with…Department staff conducting the investigation, or any other individual who may have been involved in the circumstances that is under investigation…*

In 2009, the Department concluded its investigation and determined the evidence sufficient to prove excessive use of force and notified the employee of its intent to discharge him.[64] Soon after the employee received the intent to discharge letter, he contacted the witness nurse and asked her to change her statement about what she observed because her prior statement "was not going to benefit him." After learning of the subject employee's contact with the witness nurse, the Department promptly initiated an administrative investigation and determined the subject employee had, in fact, "interfered with the [2008] investigation" (a violation of Department Directive 1211) and discharged the employee. The employee appealed the discipline. A hearing officer determined that, although the subject employee failed to exercise sound judgment (by asking a witness in his case to change her statement) the employee had not actually "interfered with the investigation" since the investigation had already concluded by the time he tampered with the witness. Based on these findings, the hearing officer recommended reducing the discharge to a 30-day suspension. The Civil Service Commission adopted the hearing officer's findings and reduction of discipline. The Department filed a Petition for Writ. After review of the record, the court found that the hearing officer's finding—that the employee had not interfered with investigation because the investigation had concluded—was "simply wrong" and

64 The Department later reduced the discipline from discharge to a 30 day suspension.

that the employee's conduct was "unequivocally" a violation of the Department's Directive 1211.

The court pointed out that the employee's underlying 2008 misconduct case had not been made final at the time the misconduct occurred since the employee had, at that point, only received notice of the Department's intent to discharge him. The court also noted that that Directive 1211 does not specify a time when the "no contact" admonishment no longer applies adding that it "contemplates no strict separation between departmental investigations and administrative proceedings, anticipating that internal investigations and administrative adjudications often go hand-in-hand." (See Appendix 4) The case was sent back to the Civil Service Commission for review and consideration, and the hearing officer's decision was set aside by the Commission. In late 2013, the Commission conformed its findings to be consistent with the court's order but did not change the 30-day suspension back to discharge. The Department filed a supplemental writ to address the level of discipline and it was granted. The employee has appealed the supplemental writ case to the California Court of Appeal, challenging the court's jurisdiction to remand the case to the Commission, so the Commission case has been continued pending a ruling on the appeal.

Commission Ordered to Articulate Its Decision to Overturn Discharge

In 2009, an investigation proved that a subject employee, without provocation, slapped and pinched a minor while the minor was lying in bed. Two months later, a witness minor observed the same subject employee kick and strike another minor who was curled in a ball on the floor. The subject employee also struck the witness minor. The subject employee then told one of the minors to say "nothing happened" when Department investigators ask him for a statement about the incident. The subject then gave the minor candy. The Department discharged the subject employee and the discipline was upheld by a hearing officer.[65] The employee objected to the hearing officer's decision and recommendation to the Civil Service Commission, arguing that one of the witness minors (critical to the excessive force allegation) did not have, at the hearing, an independent recollection of the incident and that his written affidavit (which was

[65] The hearing officer determined that the allegations related to the initial 2009 incident were proven but that the allegations regarding the subsequent incident were not. With regard to the writ, both parties agreed that the hearing officer's determination with respect to the subsequent incident were not at issue in the writ.

contemporaneously prepared at the time of the incident) was hearsay evidence and insufficient to support a substantiated finding of the allegation.

In early 2013, the Commission issued its decision to reverse the discharge but did not state the basis of its decision. The Department filed a writ challenging the Commission's final order. The court reviewed the record and remanded the case back to the Commission, stating that its failure to state the rationale to vacate the hearing officer's findings, forcing the court to guess at the basis for its decision, was "unacceptable." The Commission re-issued its decision to reverse the discharge after revising and issuing new Findings of Fact and Conclusions of Law. The Department filed a supplemental writ challenging the Commission's findings and basis for the findings. The court is scheduled to hear argument on the matter in 2016.

Department's Writ Denied on Discharge Case

Subject employee was discharged by the Department following an investigation of an incident that occurred in 2008. The Department investigation revealed that the subject employee had thrown a shoe at a minor client while the minor was taking a shower. After completing his shower, the minor threw the shoe back at the subject employee at which time the employee pepper sprayed the minor. Rather than "decontaminating" the minor per policy,[66] the subject employee ordered two other staff to escort the minor to the staff office. Once inside the office, the subject employee jumped on top of the minor and punched him several times in the face and head with closed fists. The subject was pulled off of the minor by the witness staff members. The minor suffered injuries to his head, face and eyes. The witness staff initially told the Department investigator that they did not see the subject employee strike the minor. The following day, the witness staff requested a second interview at which time they stated they wanted to tell the truth that they did observe the subject strike the minor.

A hearing officer reduced the discipline to a 15-day suspension stating that there were problems with the case, including the changed statements from the witness staff, questions about how many times the minor was actually struck, and whether the minor's facial injuries resulted from

[66] Per Department policy, immediately following exposure to pepper spray, a minor must be removed to a safe area and washed off with cold water.

the subject's actions or from two prior physical interventions (involving the witness staff) [67] that occurred earlier that same day. The hearing officer added that discharge was "extreme" since the subject had no prior discipline in his many years with the Department. The Commission adopted the hearing officer's recommendation and imposed the 15-day suspension, stating that "the Department did not prove that the discipline was appropriate."

The Department filed a writ challenging numerous findings made in the hearing officer's report including the finding that it was "highly probable" that the minor sustained his injuries to his face during the two earlier incidents. The Department presented evidence showing that the minor was seen by a nurse after the two earlier incidents and the nurse did not find any trauma to the minor's face. The Department also argued that the finding that the subject only struck the minor once contradicted the overwhelming evidence (including medical evidence) that he had been struck multiple times. The Department also argued that discharge was the appropriate level of discipline because the subject failed to take responsibility for his actions (in fact, flat out denying he struck the minor) and showed no remorse.

Noting that the court does not have the power to reweigh the evidence and evaluate the credibility of witnesses, the court, upon review of the record, found that there was substantial evidence to support the hearing officer's findings. And although the Court believed that the subject should have received more significant discipline for his misconduct, it noted that the 15-day suspension fell within the range of discipline provided in the Department's Disciplinary Guidelines. The court also noted that in light of the hearing officer's analysis, it could not find the Civil Service Commission abused its discretion when it adopted the hearing officer's recommendation to reduce the discipline from discharge to a 15-day suspension.

Court Orders Commission to Articulate Its Decision to Overturn Discharge

In 2009, a minor client had requested that he be put in handcuffs because he felt as if he might harm himself. The minor reported that the subject employee entered his room, handcuffed his hands and legs behind his back (with his hands and legs attached) and picked him up by the handcuffs and ankles and lifted him up three times and told him, "This is what we do if we really

[67] The hearing officer stated that although the witnesses appeared sincere and credible it was "quite possible" that they changed their stories to implicate the subject and protect themselves from possible consequences resulting from their involvement in the two earlier physical incidents.

don't like you."[68] The subject's written report of the incident indicated that the minor had been handcuffed but that they were removed when he had calmed down. During the investigation, the Department learned that the subject attempted to contact other witnesses. In 2012, the Department discharged the subject employee. The hearing officer sustained the discharge. The employee objected to the hearing officer's recommendation and, in 2012, the Commission reduced the discharge to a 30-day suspension.

The Department filed a writ challenging the Commission's decision. In 2013, the court granted the writ. The court stated that the Commission failed both to issue its own conclusions of law and to provide any analysis for its decision. "Put another way, the Commission did not bridge the analytical gap between the evidence and its factual findings with its ultimate decision to discipline [the subject] by suspending him for thirty days." The court added,

> *The inadequacy of the Commission's order is compounded by its failure to explain the evidence that it relied on in determining that the imposed penalty was appropriate, or making any meaningful findings to support the imposed penalty…Here, the Commission's order suspending [the subject] for thirty days is not supported by sufficient factual findings or any legal conclusion.*
>
> *In sum, without any reasoned analysis or roadmap, the Court is left to Speculate as to the Commission's basis for its ultimate decision to suspend [the subject] for thirty days…*

On remand by the Court, the Commission ultimately confirmed its decision to reduce the discharge to a 30-day suspension. However, rather than articulating in its own words the rationale for its decision as ordered by the Court, the Commission instructed the employee's attorney to draft new findings of fact and conclusions of law explaining the Commission's decision. The employee's attorney did that and the Commission adopted those new findings and conclusions. The Department filed objections to the Commission's new findings and conclusions. The Department also pursued further relief in Superior Court by filing a supplemental writ and asked the Court to make findings on the substantive issues which were never addressed by the Court in the original writ. The Commission upheld its decision to reduce the discharge to a 30-day suspension and the supplemental writ was denied by the court.

[68] "Hogtying" is prohibited and consists of a person's hands and feet cuffed behind his back with his hands and feet attached together.

Employee's Writ on Discharge Case Denied

Subject employee was discharged in 2010 for pepper spraying a minor and then standing with one foot on the minor's back for an extended period of time while the minor was handcuffed. In addition to using excessive force the employee was found to have violated the Department's policy that required immediate first-aid treatment following exposure to pepper spray. The evidence established that the employee's actions were unprovoked. The employee had a prior 30-day suspension for unnecessary/excessive force. The employee appealed the discipline but a hearing officer and Civil Service Commission upheld the discharge. The employee then filed a writ with the Court challenging the discipline but lost. The Court did not grant the writ, leaving the discharge in place.

Court Orders Commission to Articulate Its Decision to Uphold Discharge

In 2010, the Department received an anonymous complaint alleging that during 2009, the subject employee, while assigned at one of the camps, had an inappropriate relationship with a minor client (gang member) while the minor was detained. When interviewed by Department investigators, the employee denied the allegations and claimed there was no evidence to show an inappropriate relationship with the minor. The evidence did show, however, that after the minor was released, the employee was in contact with the minor and permitted him to drive her vehicle and that while he was driving, they were stopped at a DUI checkpoint. The employee was issued a citation for permitting the minor (an unlicensed driver) to drive her vehicle. The minor was also issued a citation for driving without a valid license and for possession of marijuana. The employee admitted that she also "bumped" into him on another occasion and that he called her at camp. There was also evidence that on yet another occasion, the employee was involved in a car accident and that the minor was a passenger in her vehicle. The minor denied having any contact with her after his release. The Department discharged the employee and the employee appealed. A hearing officer recommended the discharge be reduced to a 30-day suspension but the Commission upheld the discharge. The employee filed a writ and the court remanded the case back to the Commission, requiring the Commission to explain its decision. In late 2015, the Commission restated its decision to uphold the discharge; its findings (articulation of its decision) are pending.

Employee's Writ on Suspension and Discharge Case Pending

In 2010, a non-sworn employee who was responsible for supervising a work crew (probationers) was alleged to have engaged in inappropriate conduct with two female probationers. Two complainants alleged the employee flirted with them and made sexually suggestive comments. Witnesses overheard the employee making inappropriate comments to these women and for his part, the employee admitted to making some inappropriate comments to the complainant. One of the complainants further alleged (in a separate/supplemental complaint) that while they were alone in an office the employee forced her to perform oral copulation. There was evidence that the employee pulled the complainant/victim away to do work in the office and that they had "disappeared for some time." The employee admitted they were in the office alone but for only a short time and he denied touching the complainant/victim.[69] The Department issued a 30-day suspension. Additional allegations were discovered in the midst of the issuance of the suspension, and the Department ultimately discharged the employee, who then appealed both the suspension and the discharge. The two cases were consolidated. The hearing officer recommended sustaining the suspension and the discharge, and the Commission ordered such. The employee appealed to the Superior Court on a writ petition; the matter is set for trial in 2016.

Employee's Writ on Discharge Case Pending

In 2012, officers observed the subject employee using his cell phone while driving and pulled him over. During questioning, the officer observed that the employee appeared intoxicated and also that the employee's 10-year old daughter was inside the vehicle. The employee told the officers that he was on his way to pick up his other child. According to the police report, the employee asked for "professional courtesy" several times. When asked by the officer what he meant by that the employee said he would lock his vehicle and walk home if the officers would refrain from arresting or citing him. The employee then told the officer that he was a probation officer. The employee failed the field sobriety tests and was arrested. His BAC was .12. During a search of the vehicle, a red SOLO cup was discovered on the floorboard. When asked about the contents, the employee told the officer it contained vodka and cranberry juice. During his

[69] The case was informally presented to the District Attorney's Office. Among the potential issues with the case included the fact that the second female probationer had not alleged the sexual assault in her initial complaint. The complainants' original complaint only alleged flirting, sexual suggestive remarks and unwanted hugging.

administrative interview, he lied and told Department investigators that the cup only contained cranberry juice. The employee pled guilty to DUI (the DA did not file a child endangerment charge), was placed on formal probation and was instructed, by court order, that he could not own or operate any vehicle that is not equipped with the ignition interlock device. He also was ordered to serve 25 days in jail and his driver's license was suspended. This was the employee's second DUI while employed with the Department. The employee, who was a transportation deputy (transported minor clients for the Department), was discharged. The employee appealed the discharge. On appeal, a hearing officer recommended reducing the discharge to a 30-day suspension. The Department filed objections and the Commission reinstated the discharge. The employee filed a writ which was granted by the court. The employee's writ is currently pending.

Employee's Writ on Discharge Case Pending

In 2012, the subject employee was discharged for permitting minors to have "wrestling matches." While the employee did not organize the matches, the employee encouraged and facilitated the matches by acting as the referee. As a result of one of the matches one minor suffered a serious neck injury (fracture). After the employee learned the minor had fractured his neck, he visited the minor twice in the hospital and called the minor's father and admitted to him that he was negligent and should not have not allowed the minors to wrestle. During a telephone conversation with the father, the employee also reportedly stated that he was rooting for the minor to win the match and that he should have stopped the activity. During the administrative interview, the employee denied the conversation took place. A hearing officer recommended sustaining the discharge. The employee's objections were overruled by the Commission, sustaining the discharge. The employee filed a writ with the Superior Court, and that proceeding is pending.

Employee's Writ on 25-day Suspension Pending

In 2012, subject employee handcuffed a minor without cause or justification. The minor indicated he was handcuffed as part of a bet with the employee (the employee bet the minor) that he could get out of the handcuffs. The minor stated he was handcuffed for a couple of minutes before the handcuffs were removed. A staff member observed the incident and also noticed the minor was bleeding on his upper arm. The employee used his personal handcuffs, not Department issued ones. The employee was issued a 25-day suspension for the misconduct. The

employee had prior misconduct. The employee appealed the discipline. A hearing officer recommended reducing the discipline to a 2-day suspension. In 2015, on the Department's objections, the Commission raised the discipline back to a 20-day suspension. The employee filed a writ which was granted. The matter is scheduled to be heard by the court in 2016.

Part Five

PROFILES

CYNTHIA HERNÁNDEZ serves as the Chief Attorney for the Office of the Independent Monitor. Ms. Hernández began performing an oversight role for the Probation Department after performing a similar function for the Los Angeles County Sheriff's Department. Before beginning her career in police oversight, she was a union attorney. Ms. Hernández began her law career at the National Labor Relations Board where she investigated unfair labor practices. In 2001, she was appointed by the United Nations to defend Rwandan detainees who were charged with genocide, crimes against humanity and war crimes.

Ms. Hernández received her J.D. degree from USC Law School. While in law school, she served as an extern for US District Court Judge, Consuelo Marshall. As an undergraduate, Ms. Hernández attended UC San Diego, Universidad de Guadalajara, Mexico and the University of Nairobi, Kenya, East Africa. She also earned a M.A. in Education from Claremont Graduate University. She was a bilingual educator before becoming an attorney and speaks Spanish and Swahili.

DANA GARCETTI BOLDT is the Deputy Chief Attorney for the Office of the Independent Monitor. She came to OIM from the Office of Independent Review at the Los Angeles Sheriff's Department, where she had spearheaded a discrete investigation into allegations of misconduct at Men's Central Jail. Prior to that she was a Deputy District Attorney with the Los Angeles County District Attorney's Office with assignments in both juvenile and adult courts. Prior to leaving the Office, she was assigned to the Major Narcotics Unit and as a law clerk worked in the Major Gangs Unit. Ms. Garcetti Boldt is a graduate of Brown University and received her Doctorate of Jurisprudence and a Master's degree from Duke University.

ANTOINETTE MORRIS is a Staff Attorney for the Office of the Independent Monitor. Before joining OIM, she served as in-house counsel for Liberty Mutual Insurance, investigating and defending workers' compensation and personal injury claims. Her prior legal experience includes working as a solo practitioner handling criminal cases and civil lawsuits. Ms. Morris received her J.D. degree from Whittier Law School and her undergraduate degree from the University of California, Berkeley. She actively participates in a number of civic organizations, volunteers as a mentor, and serves as a board member for the Black Women Lawyers.

Part Six

APPENDICES

APPENDIX 1

COUNTY OF LOS ANGELES

PROBATION DEPARTMENT

DIRECTIVE

No.	1387
Issued:	10/27/15
Post until:	11/27/15

SUBJECT: EMPLOYEE SUPPORT SERVICES

On June 1, 2014, the Department entered into a Memorandum of Understanding with the Los Angeles County Sheriff's Department (LASD) for the provision of Employee Support Services (ESS).

The Employee Support Services program for LASD has been providing a wide range of personnel resources to administrators, managers, supervisors and employees working in organizations with a public safety mission.

The resources to be provided to Departmental employees include the following:

- **Critical Incident Debriefings**
- **Law Enforcement Psychological Services**
- **Education-Based Discipline for early prevention and diversion**

In order to accommodate the needs of all employees throughout the Department, ESS will provide services at the following locations:

Palmdale
1529 Palmdale Blvd., Suite 114, Palmdale

Santa Clarita City Hall Building
23920 Valencia Blvd., Suite 270, Santa Clarita

Star Center
11515 So Colima Rd. Bldg C-102, Whittier

Wilshire
3055 Wilshire Blvd. Suite 200, LA

A description of each service and method of accessing each service is outlined below:

MANUEL HOLDERS: CROSS-REFRENCE YOUR MANUAL TO THIS DIRECTIVE WHERE APPROPRIATE

Critical Incident Debriefings

Personnel involved in shooting incidents or other life threatening events often experience significant trauma. Incidents that can result in trauma include: wounding or fatally shooting, firing or attempting to fire, being fired upon and other life threatening events such as struggling with an armed suspect who has a position of advantage and witnessing a suicide. These circumstances have the potential to affect the performance and health of the employees involved. A debriefing conducted by a Department psychologist can assist in reducing potential problems. The exact impact of the incident varies with each individual and is difficult to predict. In some cases, there is no change in the individual. In others, the change may occur immediately, several hours or even days, weeks, or months later.

In the event of a firearm discharge resulting in an injury or death of another person, the shooter and all involved officer witnesses are required to attend a debriefing. It is the responsibility of the concerned Director to arrange a debriefing between a LASD Employee Support Services psychologist and all involved personnel in any incident described above, no later than five (5) days following the incident. The Director shall contact LASD ESS at (213) 738-3500. This process is to provide each employee with the opportunity to discuss the incident in a confidential environment.

The critical incident debriefing is **CONFIDENTIAL**, protected by law and is **NOT** a fitness for duty re-evaluation which is governed by Civil Service Rules 9.07 which can only be performed by Chief Executive Office's Occupational Health Programs (OHP). The only information that can and will be communicated back to the Department is notification that the employee(s) involved in the critical incident attended the debriefing as required. Should the employee request the need for additional services or time off to recover from the traumatic experience, the employee may choose to contact the Return to Work (RTW) Unit themselves or sign a waiver for LASD ESS to initiate the RTW process on their behalf.

All other critical incident debriefings are voluntary. When a departmental employee is involved or is affected by any other job related critical incident as a participant or observer, the concerned Director shall contact LASD ESS at (213) 738-3500 to schedule a debriefing. Time to attend a job related critical incident debriefing will be compensable.

Law Enforcement Psychological Services

Similar to the Employee Assistance Program with the Chief Executive Office's Occupational Health Programs, LASD ESS provides free psychological services to all departmental employees that wish to voluntarily participate due to any personal issues they may be experiencing. Requests for counseling are initiated by the employee by contacting LASD ESS at (213) 738-3500, or the Manager/Supervisor can request LASD ESS to provide outreach to the employee utilizing a referral form found on Probnet and sending via email to PROBESS@probation.lacounty.gov. LASD ESS will schedule an employee for psychological counseling services within 3 business days. All counseling sessions are **CONFIDENTIAL**. Services can be accessed at one of LASD ESS offices located throughout the County.

Participating employees are required to utilize available personal time when participating in these services. The first visit may be on county time if pre-approved by the concerned Director who will be provided with verification of participation which should **NOT** include any disclosure of personal psychological/medical information.

Education-Based Discipline

Education-based discipline is a way of addressing behavior that is inconsistent with Departmental Policies and Procedures or conduct required of a peace officer who is held to a higher standard based on Government Code Section 1029 and Penal Code Section 830.5.

The Probation Department's philosophy is that discipline should be imposed to "correct" negative actions and behaviors. Studies have shown that punishment alone does not always correct unwanted behavior or failure to comply with policies and procedures. A better approach (when reasonable) is to offer Education-Based Discipline (EBD) so that an employee will have a higher probability of decreasing future incidents when provided additional training and mentorship. EBD is a positive way of reinforcing departmental policies and expectations while minimizing the detrimental impact to the employee and their dependents due to a loss of pay.

EBD can be used in lieu of a suspension without pay or in conjunction to minimize the number of days without pay.

Jerry E. Powers
Chief Probation Officer

APPENDIX 2

COUNTY OF LOS ANGELES
PROBATION DEPARTMENT
DIRECTIVE

No.: 1377
Issued: 05/20/15
Post until: 06/20/15

VEHICLE CITATION/FINE – CONFIDENTIAL PLATES AND WHILE OPERATING A COUNTY VEHICLE

All employees of the Probation Department are expected to comply with all laws, rules and regulations, and to conduct themselves in a professional manner appropriate to their role in the organization to avoid any discredit to themselves, the Department, or the County. Peace Officers in the Probation Department may request and receive Department of Motor Vehicle (DMV) confidentiality of address information for themselves and, in some cases, family members for reasons of security. In these cases, the DMV maintains Probation Headquarters as the employee's address. It is the requirement and responsibility of all employees to remit payment for parking fines and fees to include tolls associated with the use of FastTrac and/or High Occupancy Vehicle lanes (HOV) on or before the due date clearly indicated on the citation. Also, employees who receive a citation while operating a County vehicle are expected to remit payment or dispute the citation. Any and all disputes involving the issuance of a citation must be resolved with the issuing agency or court and not the Department.

The Department will notify the employee, appropriate Probation Director or Bureau Chief in writing of unpaid citation(s) as listed below. For management personnel, the appropriate Bureau Chief will be notified directly.

1. First Notice – The employee and the employee's supervisor will be notified of the citation and provided a copy of citation(s). The notice will instruct the employee that he/she will have five business days from the date of the notice to provide proof to Human Resources that he/she has either paid the fine, contested the citation, or a payment arrangement has been made.

2. Second Notice – If the employee does not respond to the first notice, the employee, appropriate Probation Director and Bureau Chief will receive a second notice on the sixth business day following the date of the first notice. This notice will require the employee to take immediate action and provide proof of the outcome to Human Resources within five business days of the second notice.

3. Referral to Performance Management – If no response is received after the second notice, the matter will be referred to Professional Standards Bureau – Performance Management Division for review and appropriate administrative action under the *Countywide Disciplinary Guidelines: For Employees* for possible violations including failure to exercise sound judgment and failure to comply with this reasonable directive.

Jerry E. Powers
Chief Probation Officer

APPENDIX 3

COUNTY OF LOS ANGELES

PROBATION DEPARTMENT

DIRECTIVE

No.: 1358
Issued: 04/30/14
Post until: 05/30/14

SUBJECT: NEPOTISM

This Directive establishes the Probation Department policy related to nepotism and supersedes Directive No. 1112, issued October 23, 2005.

POLICY

The County of Los Angeles Probation Department will not hire, transfer or otherwise assign employees who are family members to the same work unit except as noted under the Special Exceptions of this Directive. This Directive applies to all employees, consultants and contracted employees of the County of Los Angeles Probation Department.

PURPOSE

The intent of this policy is to avoid conflicts of interest and any appearance that hiring, assignment of work, transfer or promotion decisions were a product of family relationship and not merit.

FAMILY MEMBERS DEFINED

For purposes of this policy, family members include the following: spouse, domestic partner, father, mother, brother, sister, son, daughter, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepdaughter, stepson, stepsister, stepbrother, uncle, aunt, niece, nephew, first cousin, brother-in-law, sister-in-law, and any other genealogical or marital relationship that generates a perception of favoritism.

DISCLOSURE REQUIREMENTS

This Directive identifies which family members are specifically precluded from assignments within the same work unit. In order for management to make a well-informed decision regarding the placement of a candidate to any position, full disclosure of all family members working for the Probation Department is mandated of all current and potential employees as part of the selection process for hiring or promoting.

An employee who marries another Probation Department employee must notify his or her Supervisor/Manager/Bureau Chief of the marriage immediately.

Family Members as defined within this directive shall not be assigned to the same work unit, and an employee shall not supervise or be supervised by a family member as a direct line, immediate or higher level supervisor.

All employees at the time of hiring must provide the name and relationship of all family members working for the Department. Current employees shall proactively disclose any relationship that places them in a position that creates a conflict of interest with a family member. The Human Resources Division shall establish the procedures for disclosure to ensure employees are aware of the policy.

SPECIAL ACCOUNTABILITIES

Employees and managers who have access to confidential information, deal with money, vendors, contracts or financial information, or who are otherwise in positions of significant trust, must ensure they avoid any procedure or transaction in which a family member may be a participant or have a special interest. This includes, but is not limited to, employees assigned to the Budget and Fiscal Services, Human Resources Division, (including Civil Litigation Unit), Professional Standards Bureau, Information System Bureau, Management Services, and Administration Secretaries.

The employee is responsible to report such real or potential conflicts of interest to his or her supervisor immediately to enable management to maintain the integrity of the procedure or transaction through workflow changes or reassignment. Supervisors, who become aware of any potential conflict of interest, are also required to report such conflicts of interest to their immediate supervisor immediately, and to facilitate any workflow change or reassignment.

MANAGEMENT RESPONSIBILITIES
Upon learning of any such potential conflict of interest, management must immediately reassign the employees as necessary in order to ensure they do not work in a supervisory chain of command with a family member.

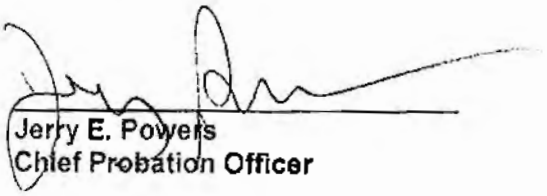
SPECIAL EXCEPTIONS

Exceptions to Probation Department's general policy against hiring or assignment of family members to the same work unit may be approved by the Chief or designee in special circumstances. These special circumstances may include, but are not limited to, family members working in decentralized locations for the same work unit, but only when they will not be placed in supervisor/subordinate relationship. The Chief or designee may determine, in his or her sole discretion, in any specific circumstance, whether the needs of the Department outweigh any actual or potential detriment presented by the hiring, transfer, promotion of, or assignment of, work to a family member. Family members who were in the same work unit prior to the implementation of this policy are permitted to remain in their assigned work units. Employees working in the same work unit who later become related, may, with the approval of the Chief or designee, remain in their assignments if superior/subordinate relationships are not an issue. Affected work unit heads must immediately notify Human Resources of any change in status.

DISCIPLINARY ACTION

Any Probation Department employee who violates this Directive is subject to disciplinary action, which may include suspension, reduction, or discharge from County Service. Any candidate for employment with the Probation Department who fails to disclose family members working in the Probation Department may be subject to disqualification from consideration for the position sought, or, if discovered after appointment, to disciplinary action, as noted above.

Please contact your Bureau's Special Assistant if you have questions related to this policy.



Jerry E. Powers
Chief Probation Officer

Authority: Notice #
Review Date: January 2015

APPENDIX 4

COUNTY OF LOS ANGELES
PROBATION DEPARTMENT
DIRECTIVE

No.: 1211
Issued: 03/05/09
Post until: 04/05/09

SUBJECT: EMPLOYEE COOPERATION RELATED TO ADMINISTRATIVE HEARINGS AND DEPARTMENTAL INVESTIGATIONS

This Directive is intended to reiterate existing standards of employee cooperation during Civil Service hearings and during investigations.

ADMINISTRATIVE HEARINGS

The Civil Service Commission plays an important role in evaluating various administrative actions. Probation employees may be issued subpoenas requiring their appearance and testimony at a Civil Service hearing. Decisions by Probation to subpoena a witness are made with careful consideration of the relevance of the witness to the proceedings, and the operational burden of the employee's absence from his/her regular work assignment. Subpoenas may also be issued by the plaintiff's representative. Employees who receive a subpoena for their appearance or testimony shall comply by doing the following:

1) Notify their supervisor or manager upon receipt of the subpoena or notice so appropriate steps can be taken to mitigate workload or scheduling impact.
2) Promptly contact the party who issued the subpoena.
3) Make themselves available to discuss their testimony.
4) Fully answer all questions and provide requested documentation. Concerns about confidential documentation should be discussed with Performance Management before provision to plaintiff's counsel.
5) Appear at the date, time, and location identified on the subpoena.
6) Testify truthfully.

Your cooperation is required not only during the proceedings, but also in preparation for the proceedings with designated departmental representatives.

It may also be necessary for employees to testify at other administrative hearings. For example, employees may be asked to appear before the California Unemployment Insurance Appeals Board or the Workers' Compensation Appeals Board to provide relevant testimony and or documentation. These proceedings differ from that of the Civil Service Commission. Therefore, subpoenas may not be issued. However, employees who are notified to appear or provide documentation are expected to comply in the same manner as having received a subpoena. Administrative hearings are not limited to those described above.

Manual Holders: Please cross reference this Directive to your manuals where applicable.

DEPARTMENTAL INVESTIGATIONS

An administrative investigation may be conducted by the work location or by a specialized unit within the Department such as Internal Affairs (IA), Child Abuse Special Investigations Unit (CASIU), or the Department's Affirmative Action Compliance Programs Office (AACPO). In addition, some sexual harassment and affirmative action investigations are conducted by external agencies such as the County's Office of Affirmative Action Compliance. Cooperation is required by all employees irrespective of each employee's designation as a charging party, witness, or subject of an investigation. It is important that the Department obtain a complete record of all relevant facts having impact on Department operations. A complete record supports the integrity of the investigation and ensures that all interested employees are treated fairly.

Employees who are identified as a charging party, witness or subject of an administrative investigation shall comply by doing the following:

1) Notify their supervisor or manager upon receipt of the subpoena or notice so appropriate steps can be taken to mitigate workload or scheduling impact.
2) Appear at the date, time, and location identified on the Interview Notice.
3) Promptly notify the unit or person issuing the Interview Notice of any scheduling conflict.
4) Provide truthful and complete responses to questions asked by the investigator(s).
5) Provide any and all requested information or evidence. Concerns about provision of confidential documentation should be discussed with Performance Management before documentation is released.

The Public Safety Officer's Procedural Bill of Rights, and the Weingarten rights, allow the subject to be represented during an investigatory interview. The subject of investigation may not be represented by someone who is also a subject or who is a witness to the matter being investigated. Witnesses are not entitled to representation. Employees who fail to answer questions directly related to the administrative investigation may be charged with insubordination, which could result in disciplinary action up to and including discharge.

Employees who participate in the investigative process should do so free from any improper influence. Therefore, under no circumstance shall an employee contact another employee for the purpose of interfering with their cooperation or participation in this process. This admonition extends to prohibit any such contact with a ward within the Department's juvenile institutions, probationers, Department staff conducting the investigation, or any other individual who may have been involved in the circumstance that is under investigation.

At times employees may be required to participate in a deposition process. Deposition testimony shall be truthful and complete. Trial, hearing, and/or Civil Service testimony that is substantively inconsistent with statements made by the same individual within a deposition and/or as part of an investigation are subject to investigation. Knowingly providing inaccurate testimony may lead to disciplinary action.

CONFIDENTIALITY

Other than as part of the investigation interview process or testimony as described above, the content of an investigation or administrative hearing shall be kept confidential at all times. Employees who are involved in these proceedings shall not discuss the nature of their testimony or documentation with anyone other than designated Department staff, their own representative, or pursuant to a subpoena.

Employees who fail to cooperate with designated staff or who fail to comply with the admonition not to discuss matters outside the investigative setting could be the subject of disciplinary action up to and including discharge.

Questions or concerns relating to this Directive may be addressed by contacting the Performance Management Unit at 562-940-2651.

Robert B. Taylor
Chief Probation Officer