



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

NOTICE OF SUSPENSION Personnel Investigation #18-060

PHIL AVALOS
NORTH GANG ENFORCEMENT TEAM
INVESTIGATIVE SERVICES COMMAND

You are hereby notified that the Orange County Sheriff-Coroner Department ("OCSD") is suspending you without pay from your position as a Deputy Sheriff II, for a period of sixty (60) working hours. Your suspension shall be served in its entirety over consecutive days and will be completed within one pay period. Pursuant to Article X, Section 3, of the County of Orange Memorandum of Understanding for the Peace Officer Unit, and the Orange County Sheriff's Department Policy Manual 340.2 (a) 2, you will be suspended for violating the following:

1. OCSD POLICY SECTION 1018.1 - STANDARD OF CONDUCT

Members shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the department.

2. OCSD POLICY SECTION 1018.33 - INCURRING LIABILITY

Members shall exercise extreme caution and good judgment to avoid occurrences that might give rise to liability chargeable against the department, the Sheriff-Coroner, or the County.

3. OCSD POLICY SECTION 1018.5 - PERFORMANCE OF DUTY

Members shall perform their duties as required or directed by law, department rules/regulations, procedures, policies or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

4. OCSD POLICY 1018.6 - OBEDIENCE TO LAWS AND REGULATIONS

(a) Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the department and all orders of the department or commands thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule/regulation, procedure or policy in question.

5. OCSD POLICY 1019.11 - TAMPERING WITH EVIDENCE

Members shall not fabricate, withhold, alter or destroy evidence of any kind.

6. OCSD POLICY 1001.2 - CANNON OF ETHICS

CANON TWO - Peace officers shall be aware of and shall use proper and ethical procedures in discharging their official duties and responsibilities.

Standard 2.3 - Peace officers shall follow legal practices in such areas as interrogation, arrest or detention, searches, seizures, use of informants, and collection and preservation of evidence.

7. OCS D FIELD OPERATIONS MANUAL (FOM), SECTION "19 C. 4" - EVIDENCE

C. Collection

4. Once you have collected the item, retain physical control over it until it is booked in the evidence locker. Property and evidence WILL be secured in an authorized Property/Evidence locker by the end of shift. (Placing items in an employee locker or in your personal vehicle for temporary storage is strictly prohibited). Under extenuating circumstances, a supervisor may authorize temporary storage in an authorized secure area (example: locked office safe, closet or file cabinet) if that area is only accessible by the deputy or the supervisor. This will maintain chain of custody.

In the letter entitled "Notice of Pending Suspension" you were provided, the specifics of the above listed violations. In addition, you were provided your right to request a Due Process Review (Skelly Meeting) of this matter, which you did not exercise.

This incident may serve as basis for a substandard evaluation, and/or denial of promotion and/or transfer. Also, be advised that any future sustained incident of a similar nature may result in a substandard performance evaluation, more severe discipline being imposed upon you, up to and including termination, and/or the denial of promotion and/or transfer.

You have the right to appeal, pursuant to Article X, Section 3C and Article XI, Sections 7 & 8 of the Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriff's for the Peace Officer and Supervising Peace Officer Unit.

Your suspension will be served as follows:

Monday, March 18, 2019	0800-1800	(10 hours)
Tuesday, March 19, 2019	0800-1800	(10 hours)
Wednesday, March 20, 2019	0800-1800	(10 hours)
Thursday, March 21, 2019	0800-1800	(10 hours)
Monday, March 25, 2019	0800-1800	(10 hours)
Tuesday, March 26, 2019	0800-1800	(10 hours)
Total:		60 hours



Ken Burmood, Commander

3-14-19

Date



Phil Avalos, Deputy Sheriff II

3-14-19

Date



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

NOTICE OF SUSPENSION Personnel Investigation #18-060

PHIL AVALOS
NORTH GANG ENFORCEMENT TEAM
INVESTIGATIVE SERVICES COMMAND

You are hereby notified that the Orange County Sheriff-Coroner Department ("OCSD") is suspending you without pay from your position as a Deputy Sheriff II, for a period of sixty (60) working hours. Your suspension shall be served in its entirety over consecutive days and will be completed within one pay period. Pursuant to Article X, Section 3, of the County of Orange Memorandum of Understanding for the Peace Officer Unit, and the Orange County Sheriff's Department Policy Manual 340.2 (a) 2, you will be suspended for violating the following:

1. OCSD POLICY SECTION 1018.1 - STANDARD OF CONDUCT

Members shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the department.

2. OCSD POLICY SECTION 1018.33 - INCURRING LIABILITY

Members shall exercise extreme caution and good judgment to avoid occurrences that might give rise to liability chargeable against the department, the Sheriff-Coroner, or the County.

3. OCSD POLICY SECTION 1018.5 - PERFORMANCE OF DUTY

Members shall perform their duties as required or directed by law, department rules/regulations, procedures, policies or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

4. OCSD POLICY 1018.6 - OBEDIENCE TO LAWS AND REGULATIONS

(a) Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the department and all orders of the department or commands thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule/regulation, procedure or policy in question.

5. OCSD POLICY 1019.11 - TAMPERING WITH EVIDENCE

Members shall not fabricate, withhold, alter or destroy evidence of any kind.

6. OCSD POLICY 1001.2 - CANNON OF ETHICS

CANON TWO - Peace officers shall be aware of and shall use proper and ethical procedures in discharging their official duties and responsibilities.

Standard 2.3 - Peace officers shall follow legal practices in such areas as interrogation, arrest or detention, searches, seizures, use of informants, and collection and preservation of evidence.

7. OCSD FIELD OPERATIONS MANUAL (FOM), SECTION "19 C. 4" - EVIDENCE

C. Collection

4. Once you have collected the item, retain physical control over it until it is booked in the evidence locker. Property and evidence WILL be secured in an authorized Property/Evidence locker by the end of shift. (Placing items in an employee locker or in your personal vehicle for temporary storage is strictly prohibited). Under extenuating circumstances, a supervisor may authorize temporary storage in an authorized secure area (example: locked office safe, closet or file cabinet) if that area is only accessible by the deputy or the supervisor. This will maintain chain of custody.

In the letter entitled "Notice of Pending Suspension" you were provided, the specifics of the above listed violations. In addition, you were provided your right to request a Due Process Review (Skelly Meeting) of this matter, which you did not exercise.

This incident may serve as basis for a substandard evaluation, and/or denial of promotion and/or transfer. Also, be advised that any future sustained incident of a similar nature may result in a substandard performance evaluation, more severe discipline being imposed upon you, up to and including termination, and/or the denial of promotion and/or transfer.

You have the right to appeal, pursuant to Article X, Section 3C and Article XI, Sections 7 & 8 of the Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriff's for the Peace Officer and Supervising Peace Officer Unit.

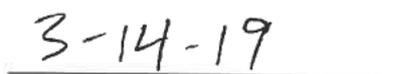
Your suspension will be served as follows:

Monday, March 18, 2019	0800-1800	(10 hours)
Tuesday, March 19, 2019	0800-1800	(10 hours)
Wednesday, March 20, 2019	0800-1800	(10 hours)
Thursday, March 21, 2019	0800-1800	(10 hours)
Monday, March 25, 2019	0800-1800	(10 hours)
Tuesday, March 26, 2019	0800-1800	(10 hours)
	Total:	60 hours


Ken Burmood, Commander


Date


Phil Avalos, Deputy Sheriff II


Date



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

NOTICE OF SUSPENSION Personnel Investigation #18-060

PHIL AVALOS
NORTH GANG ENFORCEMENT TEAM
INVESTIGATIVE SERVICES COMMAND

You are hereby notified that the Orange County Sheriff-Coroner Department ("OCSD") is suspending you without pay from your position as a Deputy Sheriff II, for a period of sixty (60) working hours. Your suspension shall be served in its entirety over consecutive days and will be completed within one pay period. Pursuant to Article X, Section 3, of the County of Orange Memorandum of Understanding for the Peace Officer Unit, and the Orange County Sheriff's Department Policy Manual 340.2 (a) 2, you will be suspended for violating the following:

1. OCSD POLICY SECTION 1018.1 - STANDARD OF CONDUCT

Members shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the department.

2. OCSD POLICY SECTION 1018.33 - INCURRING LIABILITY

Members shall exercise extreme caution and good judgment to avoid occurrences that might give rise to liability chargeable against the department, the Sheriff-Coroner, or the County.

3. OCSD POLICY SECTION 1018.5 - PERFORMANCE OF DUTY

Members shall perform their duties as required or directed by law, department rules/regulations, procedures, policies or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

4. OCSD POLICY 1018.6 - OBEDIENCE TO LAWS AND REGULATIONS

(a) Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the department and all orders of the department or commands thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule/regulation, procedure or policy in question.

5. OCSD POLICY 1019.11 - TAMPERING WITH EVIDENCE

Members shall not fabricate, withhold, alter or destroy evidence of any kind.

6. OCSD POLICY 1001.2 - CANNON OF ETHICS

CANON TWO - Peace officers shall be aware of and shall use proper and ethical procedures in discharging their official duties and responsibilities.

Standard 2.3 - Peace officers shall follow legal practices in such areas as interrogation, arrest or detention, searches, seizures, use of informants, and collection and preservation of evidence.

7. OCS D FIELD OPERATIONS MANUAL (FOM), SECTION "19 C. 4" - EVIDENCE

C. Collection

4. Once you have collected the item, retain physical control over it until it is booked in the evidence locker. Property and evidence WILL be secured in an authorized Property/Evidence locker by the end of shift. (Placing items in an employee locker or in your personal vehicle for temporary storage is strictly prohibited). Under extenuating circumstances, a supervisor may authorize temporary storage in an authorized secure area (example: locked office safe, closet or file cabinet) if that area is only accessible by the deputy or the supervisor. This will maintain chain of custody.

In the letter entitled "Notice of Pending Suspension" you were provided, the specifics of the above listed violations. In addition, you were provided your right to request a Due Process Review (Skelly Meeting) of this matter, which you did not exercise.

This incident may serve as basis for a substandard evaluation, and/or denial of promotion and/or transfer. Also, be advised that any future sustained incident of a similar nature may result in a substandard performance evaluation, more severe discipline being imposed upon you, up to and including termination, and/or the denial of promotion and/or transfer.

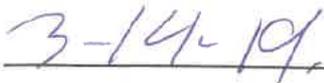
You have the right to appeal, pursuant to Article X, Section 3C and Article XI, Sections 7 & 8 of the Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriff's for the Peace Officer and Supervising Peace Officer Unit.

Your suspension will be served as follows:

Monday, March 18, 2019	0800-1800	(10 hours)
Tuesday, March 19, 2019	0800-1800	(10 hours)
Wednesday, March 20, 2019	0800-1800	(10 hours)
Thursday, March 21, 2019	0800-1800	(10 hours)
Monday, March 25, 2019	0800-1800	(10 hours)
Tuesday, March 26, 2019	0800-1800	(10 hours)
	Total:	60 hours



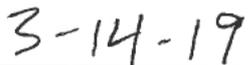
Ken Burmood, Commander



Date



Phil Avalos, Deputy Sheriff II



Date



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

NOTICE OF PENDING SUSPENSION Personnel Investigation #18-060

PHIL AVALOS
NORTH GANG ENFORCEMENT TEAM
INVESTIGATIVE SERVICES COMMAND

You are hereby notified that the Orange County Sheriff-Coroner Department ("OCSD") intends to suspend you without pay from your position as a Deputy Sheriff II, for a period of sixty (60) working hours. Your suspension shall be served in its entirety over consecutive days and will be completed within one pay period. Pursuant to Article X, Section 3, of the County of Orange Memorandum of Understanding for the Peace Officer Unit, and the Orange County Sheriff's Department Policy Manual 340.2 (a) 2, you will be suspended for violating the following:

1. OCSD POLICY SECTION 1018.1 - STANDARD OF CONDUCT

Members shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the department.

2. OCSD POLICY SECTION 1018.33 - INCURRING LIABILITY

Members shall exercise extreme caution and good judgment to avoid occurrences that might give rise to liability chargeable against the department, the Sheriff-Coroner, or the County.

3. OCSD POLICY SECTION 1018.5 - PERFORMANCE OF DUTY

Members shall perform their duties as required or directed by law, department rules/regulations, procedures, policies or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

4. OCSD POLICY 1018.6 - OBEDIENCE TO LAWS AND REGULATIONS

(a) Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the department and all orders of the department or commands thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule/regulation, procedure or policy in question.

5. OCSD POLICY 1019.11 - TAMPERING WITH EVIDENCE

Members shall not fabricate, withhold, alter or destroy evidence of any kind.

6. OCSD POLICY 1001.2 - CANNON OF ETHICS

CANON TWO - Peace officers shall be aware of and shall use proper and ethical procedures in discharging their official duties and responsibilities.

Standard 2.3 - Peace officers shall follow legal practices in such areas as interrogation, arrest or detention, searches, seizures, use of informants, and collection and preservation of evidence.

7. OCSD FIELD OPERATIONS MANUAL (FOM), SECTION "19 C. 4" - EVIDENCE

C. Collection

4. Once you have collected the item, retain physical control over it until it is booked in the evidence locker. Property and evidence WILL be secured in an authorized Property/Evidence locker by the end of shift. (Placing items in an employee locker or in your personal vehicle for temporary storage is strictly prohibited). Under extenuating circumstances, a supervisor may authorize temporary storage in an authorized secure area (example: locked office safe, closet or file cabinet) if that area is only accessible by the deputy or the supervisor. This will maintain chain of custody.

On March 21st, 2018, at the direction of Commander W. Baker, Internal Affairs initiated a personnel investigation into your on-duty actions relating to improper collection and booking of evidence.

An investigation into your collection and booking of evidence from February 2016 to January 2018 revealed you violated Department policy approximately forty-six (46) times by booking evidence later than the same shift. Additionally, there was two (2) incidents where no evidence was booked/logged into "Remedy" (Sheriff's Evidence).

During your interview with Internal Affairs Sergeants Montano and Mauga, you admitted to consistently booking in evidence late as well as practicing poor chain of custody procedures. You told Sergeants Montano and Mauga that you understood the potential liability issues regarding booking in evidence late brings to yourself and the Department. You stated you regularly used your desk drawer and office safe as "temporary evidence holding facilities", against Department policy. You also admitted you violated various Department polices during the timeframe of the investigation and stated you took responsibility for your irresponsible actions.

As a member of the Orange County Sheriff's Department, you have an unyielding responsibility to continually conduct yourself professionally, honestly, and not bring public embarrassment or liability upon yourself, your Department, or its members. After consideration of all available information, the Department believes you violated the above listed OCSD Policy sections.

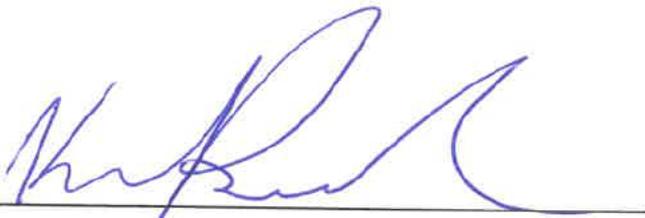
In addition to this "Notice of Pending Suspension," you are entitled to the documents that substantiate the decision to suspend you:

- Initial Action
- Investigative Summary
- Initiating Memos
- CD of Internal Affairs Interview

This incident may serve as basis for a substandard evaluation, and/or denial of promotion and/or transfer. Also, be advised that any future sustained incident of a similar nature may result in a substandard performance evaluation, more severe discipline being imposed upon you, up to and including termination, and/or the denial of promotion and/or transfer. You are entitled to a due process review (Skelly Meeting) before discipline is imposed. You may respond in writing to Assistant Sheriff Jon Briggs within ten (10) calendar days of receipt of this notice, or you may request a meeting. If you choose a meeting, you must notify Internal Affairs Sergeant AJ Patella within ten (10) calendar days of receipt of this notice and a meeting will be arranged for a later date.

If you do not provide a written response or request a meeting by 1700 hours on the tenth calendar day following your receipt of this notice, it will be assumed you have waived your right to be heard. If you do respond, consideration will be given to your response prior to taking any proposed action on this proposal for suspension. You are entitled to represent yourself or may be represented by the Association of Orange County Deputy Sheriffs ("AOCDS") pursuant to the Memorandum of Understanding between the County of Orange and AOCDS in any pre-disciplinary meeting you may request.

If this proposed action becomes final, you have the right to appeal, pursuant to Article X, Section 3C and Article XI, Sections 7 and 8 of the Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriff's for the Peace Officer and Supervising Peace Officer Unit.



Ken Burmood, Commander

2-28-19

Date



Phil Avalos, Deputy Sheriff II

2/28/19

Date

**Internal Investigation
Administrative Worksheet
PI# 18-060**

Principal(s): Deputy Phil Avalos

Complainant(s): Administration

Facility/Location: N.GET/Investigative Services Command

Disposition:

1. OCSD Policy Manual Section 1018.1 – Standard of Conduct

Unfounded / No Further Action / Exonerated / Not Sustained / Sustained

2. OCSD Policy Manual Section 1018.33- Incurring Liability

Unfounded / No Further Action / Exonerated / Not Sustained / Sustained

3. OCSD Policy Manual Section 1018.5- Performance of Duty

Unfounded / No Further Action / Exonerated / Not Sustained / Sustained

4. OCSD Policy Manual Section 1018.6- Obedience to Laws and Regulations

Unfounded / No Further Action / Exonerated / Not Sustained / Sustained

5. OCSD Policy Manual Section 1019.11- Tampering With Evidence

Unfounded / No Further Action / Exonerated / Not Sustained / Sustained

6. OCSD Policy Manual Section 1001.2- Canon of Ethics

Unfounded / No Further Action / Exonerated / Not Sustained / Sustained

7. OCSD Field Operations Manual (FOM), Section "19 C.4" - Evidence

Unfounded / No Further Action / Exonerated / Not Sustained / Sustained

Administrative Leave

Discipline: Written Reprimand Suspension (# of hours 60)
 Demotion (to rank of _____) Dismissal

Comments / Other: _____

Administrative Disposition by: *Com. App. Dir. [Signature]* Date: 2-25-19
KFIN Bullwood

Administrative Appeal Hearing

Date: _____ Time: _____

In Attendance: _____

Comments: _____

Disposition: _____

Disposition by: _____ Date: _____

Initial Action

Case #18-060

ORANGE COUNTY SHERIFF'S DEPARTMENT

3/21/2018

COMPLAINANT: Sheriff's Administration

COMPLAINANT DATE: 3/21/2018

DIVISION: Field Operations and Investigative Services

DIVISION COMMANDER: Captain K. Burmood

INITIAL ACTION

No Further Action

Division Review

Human Resources Investigation

Division Personnel Investigation

Personnel Investigation

(Requires Completion of Administrative Leave Authorization)

CRIMINAL INVESTIGATION (Requires Administrative Leave Review)

Internal Criminal

Outside Agency

ADMINISTRATIVE LEAVE AUTHORIZATION (AL checked requires AL Review)

ADMINISTRATIVE LEAVE

NO ADMINISTRATIVE LEAVE

Executive Command

OPERATIONS/INVESTIGATIONS
(Employee's Command)

3/22/18
Date

ADMINISTRATIVE LEAVE REVIEW

Executive Command

(Field Ops/Investigative Command)

3-22-18
Date

Executive Command

(Professional Services Command)

3-22-18
Date

Initiating Memorandums

**ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO**



TO: Commander Bill Baker
FROM: Lieutenant Nathan Wilson
DATE: March 20, 2018
RE: Personnel Investigation - Deputy Philip Avalos

Beginning on February 2, 2018, an internal audit was conducted of the department's Property Evidence System. During the course that audit, it was revealed that Deputy Philip Avalos had failed to book a piece of evidence in accordance with Field Operations Manual, Section 19, which states that "Property and evidence will be secured in an authorized Property/Evidence locker by the end of shift. (Placing items in an employee locker or in your personal vehicle for temporary store is strictly prohibited)".

On April 28, 2017, Deputy Avalos responded to a car stop conducted by Dep. Pablo Alvarez (DR#17-016372). Dep. Avalos collected a knife, 3.3 grams of narcotics and arrested the subject on a weapons and narcotics charge. The subject pled guilty to the charges on January, 18, 2018. Dep. Avalos did not book the evidence used in support of the charges until January 23, 2018, two hundred seventy days after it had been collected and five days after the subject pled guilty.

I am requesting an internal investigation into the actions of Deputy Philip Avalos.

*REFER TO
INTERNAL CRIMINAL
W. BAKER
3-21-18
(W)*



ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO



TO: Captain Ken Burmood
FROM: Lieutenant Andy Stephens (WA)
DATE: December 12, 2018
RE: Internal Criminal Investigation #18-012566

On March 22, 2018, the Orange County Sheriff's Department Evidence Audit Team was assigned an Internal Criminal investigation regarding OCS Deputy P. Avalos. It was alleged Deputy Avalos did not book evidence which he collected on multiple occasions while working as a member of the North Gang Enforcement Team. Deputy Avalos was not placed on Administrative Leave for this incident.

Investigator [REDACTED] conducted a thorough investigation of the incident. At the conclusion of the investigation, he submitted copies of all reports associated with the investigation to the Orange County District Attorney's Office.

The case was assigned to Deputy District Attorney Susan Laird for review. On September 17, 2018, after carefully reviewing the case, Deputy DA Laird rejected the case having concluded that the filing of criminal charges was not warranted. The DA's criminal review of this case is closed.

I recommend this case be assigned to Internal Affairs for an administrative review related to any violation(s) of department policy.

Command Staff

Remarks

Investigations Captain

concur to IA

Area Commander

Concur

Assistant Sheriff

concur



Personnel Investigation Summary

ORANGE COUNTY SHERIFF'S DEPARTMENT

INTERNAL MEMO



To: Lieutenant Garrett DeGiorgio
From: Sergeant Justin Montano
Date: February 13th, 2019
RE: Internal Affairs Personnel Investigation #18-060

COMPLAINANT: SHERIFF'S ADMINISTRATION

EMPLOYEE(S): DEPUTY PHILLIP AVALOS #7204

INCIDENT LOCATION: NORTH GANG ENFORCEMENT TEAM (NGET)

INCIDENT DATE(S): FEBRUARY 1ST, 2016 THROUGH FEBRUARY 1ST, 2018

ALLEGATION(S):	1. OCSD POLICY 1018.1	STANDARD OF CONDUCT
	2. OCSD POLICY 1018.5	PERFORMANCE OF DUTY
	3. OCSD POLICY 1018.33	INCURRING LIABILITY
	4. OCSD POLICY 1018.6	OBEDIENCE TO LAWS AND REGULATIONS
	5. OCSD POLICY 1019.11	TAMPERING WITH EVIDENCE
	6. OCSD POLICY 1001.2	CANNON OF ETHICS
	7. OCSD FOM SECTION "19 C. 4"	EVIDENCE

1. OCSD POLICY 1018.1 - STANDARD OF CONDUCT

(a) Members shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the department.

2. OCSD POLICY 1018.5- PERFORMANCE OF DUTY

Members shall perform their duties as required or directed by law, department rules/regulations, procedures, policies, or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

3. OCSD POLICY 1018.33 - INCURRING LIABILITY

Members shall exercise extreme caution and good judgment to avoid occurrences that might give rise to liability chargeable against the department, the Sheriff-Coroner, or the County.

4. OCSD POLICY 1018.6 – OBEDIENCE TO LAWS AND REGULATIONS

(a) Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the department and all orders of the department or commands

thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule/regulation, procedure or policy in question.

5. OCSD POLICY 1019.11 – TAMPERING WITH EVIDENCE

Members shall not fabricate, withhold, alter or destroy evidence of any kind.

6. OCSD POLICY 1001.2 - CANNON OF ETHICS

CANON TWO – Peace officers shall be aware of and shall use proper and ethical procedures in discharging their official duties and responsibilities.

Standard 2.3 – Peace officers shall follow legal practices in such areas as interrogation, arrest or detention, searches, seizures, use of informants, and collection and preservation of evidence.

7. OCSD FIELD OPERATIONS MANUAL (FOM), SECTION “19 C. 4” – EVIDENCE

C. Collection

4. Once you have collected the item, retain physical control over it until it is booked in the evidence locker. Property and evidence WILL be secured in an authorized Property/Evidence locker by the end of shift. (Placing items in an employee locker or in your personal vehicle for temporary storage is strictly prohibited). Under extenuating circumstances, a supervisor may authorize temporary storage in an authorized secure area (example: locked office safe, closet or file cabinet) if that area is only accessible by the deputy or the supervisor. This will maintain chain of custody.

INITIAL ACTION:

On 03-21-18, Commander W. Baker recommended an Internal Criminal investigation into the on-duty actions of Deputy Phil Avalos. It was alleged Deputy Avalos violated numerous policies relating to collection and booking of evidence.

On 09-17-18, The Orange County District Attorney’s office declined to file charges against Deputy Avalos. *For further details, see page 5 of this report for the copy of the official DA letter.*

On 12-12-18, after the completion of the Internal Criminal investigation and DA review, Assistant Sheriff J. Hallock recommended an Internal Affairs investigation regarding any violations of Department policies.

MEMO FROM LIEUTENANT N. WILSON TO COMMANDER W. BAKER (DATED 03-20-18)

**ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO**



TO: Commander Bill Baker
FROM: Lieutenant Nathan Wilson
DATE: March 20, 2018
RE: Personnel Investigation - Deputy Philip Avalos

Beginning on February 2, 2018, an internal audit was conducted of the department's Property Evidence System. During the course that audit, it was revealed that Deputy Philip Avalos had failed to book a piece of evidence in accordance with Field Operations Manual, Section 19, which states that "Property and evidence will be secured in an authorized Property/Evidence locker by the end of shift. (Placing items in an employee locker or in your personal vehicle for temporary store is strictly prohibited)".

On April 28, 2017, Deputy Avalos responded to a car stop conducted by Dep. Pablo Alvarez (DR#17-016372). Dep. Avalos collected a knife, 3.3 grams of narcotics and arrested the subject on a weapons and narcotics charge. The subject pled guilty to the charges on January 18, 2018. Dep. Avalos did not book the evidence used in support of the charges until January 23, 2018, two hundred seventy days after it had been collected and five days after the subject pled guilty.

I am requesting an internal investigation into the actions of Deputy Philip Avalos.

*Refer to
Personnel Complaint
W. Baker
3-21-18
(W)*



MEMO FROM LIEUTENANT A. STEPHENS TO CAPTAIN K. BURMOOD (DATED DECEMBER 12TH, 2018)

**ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO**



TO: Captain Ken Burmood
FROM: Lieutenant Andy Stephens
DATE: December 12, 2018
RE: Internal Criminal Investigation #18-012566

On March 22, 2018, the Orange County Sheriff's Department Evidence Audit Team was assigned an Internal Criminal investigation regarding OCSD Deputy P. Avalos. It was alleged Deputy Avalos did not book evidence which he collected on multiple occasions while working as a member of the North Gang Enforcement Team. Deputy Avalos was not placed on Administrative Leave for this incident.

Investigator [REDACTED] conducted a thorough investigation of the incident. At the conclusion of the investigation, he submitted copies of all reports associated with the investigation to the Orange County District Attorney's Office.

The case was assigned to Deputy District Attorney Susan Laird for review. On September 17, 2018, after carefully reviewing the case, Deputy DA Laird rejected the case having concluded that the filing of criminal charges was not warranted. The DA's criminal review of this case is closed.

I recommend this case be assigned to Internal Affairs for an administrative review related to any violation(s) of department policy.

Command Staff

Remarks

 Investigations Captain	<u>concur to IA</u>
 Area Commander	<u>Concur</u>
 Assistant Sheriff	<u>concur</u>



LETTER FROM THE DISTRICT ATTORNEY'S OFFICE TO INVESTIGATOR



**OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TONY RACKAUCKAS**

JIM TANIZAKI
CHIEF ASSISTANT D.A.

SCOTT ZIDBECK
SENIOR ASSISTANT D.A.
FELONY OPERATIONS IV

TRACY MILLER
SENIOR ASSISTANT D.A.
FELONY OPERATIONS III

ABRAHAM BAYTIH
SENIOR ASSISTANT D.A.
FELONY OPERATIONS II

KEITH BOGARDUS
SENIOR ASSISTANT D.A.
FELONY OPERATIONS I

HOWARD R GUNDT
SENIOR ASSISTANT D.A.
BRANCH COURT OPERATIONS

PAUL M. WALTERS
CHIEF
BUREAU OF INVESTIGATION

JENNY GIAN
DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

September 17, 2018

Investigator [REDACTED]
Orange County Sheriff's Department
Attn: Internal Affairs
P.O. Box 449
Santa Ana, CA 92702-9951

RE: Internal Criminal Investigation of Deputy Sheriff Philip Avalos
Case no. 18-012566

Dear Investigator [REDACTED]

Our office has reviewed the above listed report dated March 22, 2018, regarding Orange County Sheriff Deputy Avalos' failure to book evidence or property at the Orange County Sheriff's Department in in two cases and his failure to book evidence in a timely fashion (between 2 and 270 days late) in 46 other cases. In addition, our office reviewed your report documenting where Dep. Avalos stated in his report that he booked 14 bullets, but only listed 12 bullets in Remedy (the OCSO Evidence Booking Computer System) as booked into evidence. It is our conclusion after reviewing all the available evidence that the filing of criminal charges against Deputy Avalos is not warranted because we do not have sufficient evidence to prove beyond a reasonable doubt that Deputy Avalos committed a crime. However, our office will notify all the defendants impacted by Deputy Avalos' conduct in connection with evidence related to their cases. Thank you for bringing this matter to our attention.

Sincerely,

SUSAN J. LAIRD
Orange County District Attorney's Office
Deputy District Attorney
Special Prosecutions Unit
714-347-8627
susan.laird@da.ocgov.com



REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://www.orangetyda.org/>

ADMIN OFFICE
401 CIVIC CENTER DR W
P.O. BOX 808
SANTA ANA, CA 92701
(714) 934-2022

NORTH OFFICE
1275 N BERKELEY AVE
FULLERTON, CA 92632
(714) 773-4480

WEST OFFICE
8411 13TH STREET
WESTMINSTER, CA 92685
(714) 690-7201

HARBOR OFFICE
4501 JANSSEN RD
NEWPORT BEACH, CA 92660
(949) 476-6650

JUVENILE OFFICE
311 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 855-7624

CENTRAL OFFICE
401 CIVIC CENTER DR W
P.O. BOX 808
SANTA ANA, CA 92701
(714) 934-2022

INTERNAL CRIMINAL INVESTIGATION (INVESTIGATOR [REDACTED])

INTERNAL CRIMINAL – COPY OF INVESTIGATIVE SUMMARY

Background:

On Thursday, March 22, 2018, I was assigned this Internal Criminal Investigation by Sergeant J. Montano. Sgt. Montano gave me a packet of information containing internal memos by Commander B. Baker, Captain K. Burmood, and Lieutenant N. Wilson. Sgt. Montano told me this investigation would be relating to late evidence booking by Deputy P. Avalos (DR 17-016372).

Summary of Internal Memos:

On 4-28-17, Deputy P. Avalos responded to a car stop conducted by Deputy P. Alvarez. During the incident Avalos collected a knife and 3.3 grams of narcotics. The suspect was arrested and booked in OCJ for weapons and narcotics violations. The subject pleaded guilty to the charges on 1-18-18. Avalos did not book the evidence collected from this incident until 1-23-18, which is 5 days after the subject plead guilty.

Sheriff's Remedy System:

When an OCSD employee books evidence, he or she is required to book it into property through the "Remedy" computer application at one of several computer terminals located throughout the department. Remedy terminals and secure evidence lockers are located at many OCSD buildings, including the Stanton Station, Southeast Station in Lake Forest, Southwest Station in Aliso Viejo, and other locations. Using Remedy, the employee inputs his or her own name, assignment, property description, and other information into a computerized form. Once all the information is entered and saved, a tag and a label are generated. The employee attaches the label to the item of evidence. The employee writes his or her initials and ID number on the evidence tag and attaches it to the item. The employee then places the item of evidence into a secure evidence locker. Remedy users can also generate various reports that list items booked in under a particular DR number. One report called "Case Items Report" simply lists the items booked in under a DR number. Another report called "Audit Trail Report" lists who booked in an item (among other information). These reports also display whether property is still in evidence, has been released, or has been destroyed. The description of the property in evidence is solely dependent on how the employee describes it when he or she enters it into Remedy. The description does not necessarily reflect what is actually booked into evidence.

Photographic Evidence:

When a Deputy Sheriff takes his or her own photographs as part of an investigation, there is an alternate procedure for booking them into evidence. The deputy may submit them into evidence without using the Remedy system. After taking photos and saving them to a CD or other digital media, the deputy places the CD into a photo evidence envelope and then into a secure evidence locker. According to the OC Crime Lab (OCCL) photo lab Section Manager, Kim Brown, the process is as follows. The evidence is collected daily and delivered to Sheriff's Evidence. The envelopes containing CD's are delivered to the OCCL photo lab where they are logged into their tracking system. The deputy's photographs are then available to be viewed electronically at some later date. Kim told me there can be a delay of a few days between when the deputy submits the evidence at their workplace and the date it is reflected in the OCCL computer tracking system. The date listed in the table below

for photo CDs is the date the evidence was logged into the OCCL photo lab system. If the lab had no record of a receipt of photos for a DR number, that information is in the Notes section of the table below.

Identification of Possible Late Evidence Booking:

Using Sheriff's software applications, I located 85 case numbers between 2-1-16 and 2-1-18 in which Deputy Avalos is the assigned deputy. Two of the reports were actually written by someone else (DRs 16-246983 & 17-026068). I read each of the remaining reports to identify cases in which Deputy Avalos collected evidence and the approximate date and time it was collected. I identified 51 case numbers under which Deputy Avalos collected evidence. I then checked Property Tracking System using Remedy. I compared the dates when evidence was booked with the dates it was collected. I then checked court records for each case to determine whether the suspect pled guilty before Deputy Avalos booked in his evidence. I compiled my findings into the table below. The Notes section of the table may contain language from Deputy Avalos' reports regarding when the evidence was to be booked, a synopsis of the incident, court details, and/or other notes. **For details, see the table on pages 8 through 13 of this memo.**

	DR	INCIDENT DATE / TIME	BOOKING DELAY	NOTES / COMMENTS
1	16-033743	02/10/2016 21:44:02	1 DAY	REPORT LISTS 14 BULLETS BUT REMEDY ONLY SHOWS 12 BULLETS BOOKED. ALL OTHER ITEMS MATCH.
2	16-043984	02/22/2016 23:57:03	29 DAYS	METHAMPHETAMINE WAS COLLECTED AT THE INCIDENT. EVIDENCE WAS NOT BOOKED FOR 29 DAYS. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
3	16-051228	03/01/2016 20:35:06	13 DAYS	METHAMPHETAMINE AND PARAPHERNALIA WAS TAKEN FROM A SUBJECT. THE ITEMS WERE BOOKED 13 DAYS LATER. REPORT STATES: " I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
4	16-051290	03/01/2016 22:22:06	13 DAYS	HEROIN AND A SYRINGE WERE TAKEN FROM A SUBJECT. THE ITEMS WERE BOOKED IN 13 DAYS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
5	16-051890	03/02/2016 15:26:53	12 DAYS	METHAMPHETAMINE AND TWO SYRINGES WERE TAKEN FROM A SUBJECT. THE ITEMS WERE BOOKED 12 DAYS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
6	16-064034	03/16/2016 15:02:13	6 DAYS	FIREARM, AMMUNITION, AND GANG INDICIA WERE COLLECTED FROM A SUBJECT. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
7	16-109772	05/06/2016 22:17:46	3 DAYS	SUBJECT WAS ARRESTED FOR DRUG SALES. EVIDENCE WAS COLLECTED AND BOOKED IN 3 DAYS LATER.
8	16-125835	05/25/2016 01:30:13	63 DAYS	KNIFE AND A BLACK HANDKERCHIEF (GANG INDICIA) WERE TAKEN FROM A SUBJECT. THE KNIFE WAS NOT BOOKED IN FOR 63 DAYS. THE GANG INDICIA WAS NOT BOOKED IN FOR 77 DAYS.
9	16-126108	05/25/2016 10:40:14	20 DAYS	INCIDENT OCCURRED ON 5-25-16. A "DR DRAWN IN ERROR" REPORT WAS SUBMITTED ON 7-5-16. THEN ON 8-29-16 AN ADDITIONAL "DR DRAWN IN ERROR" REPORT WAS SUBMITTED THIS TIME ALSO STATING THAT "THE POTENTIAL EVIDENCE, WHICH NOW HAS NO EVIDENTIARY VALUE, WAS BOOKED INTO SHERIFF'S EVIDENCE FOR DESTRUCTION" THE ITEMS BOOKED WERE BOOKED WITH A CRIME CODE ATTACHED AND NOT FOR DESTRUCTION. THEY ALSO LISTED A SUSPECT NAME AND DOB OF [REDACTED]. ON 8-29-16, ANOTHER VERSION OF THE "DR DRAWN IN ERROR" REPORT WAS SUBMITTED. THIS ONE HAS A LITTLE MORE DETAIL AND AGAIN CLAIMS THE ITEMS WERE BOOKED FOR DESTRUCTION.
10	16-158984	06/28/2016 14:29:39	43 DAYS	INCIDENT WAS A TRAFFIC STOP AND SEARCH OF A HOTEL ROOM. METHAMPHETAMINE AND PARAPHERNALIA WERE FOUND. THERE WAS ALSO AN ID CARD AND PAPER BOOKED INTO EVIDENCE BUT THEY ARE NOT LISTED AS EVIDENCE IN THE REPORT. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."

11	16-172942	07/11/2016 20:55:53	126 DAYS	OCCUPIED VEHICLE WHERE TWO METH PIPES WERE FOUND. THE PIPES WERE NOT BOOKED UNTIL 4 MONTHS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
12	16-186819	07/25/2016 22:42:21	16 DAYS	PED STOP. METH PIPE WAS FOUND ON A SUBJECT. THE PIPE WAS BOOKED 16 DAYS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF ALL THE EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
13	16-195180	08/02/2016 22:53:51	8 DAYS	PED STOP. FOUND A REPLICIA FIREARM AND A KNIFE. EVIDENCE WAS BOOKED 8 DAYS LATER. REPORT STATES: "I...MAINTAINED POSSESSION OF ALL OF THE EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
14	16-196895	08/04/2016 12:47:23	6 DAYS	PED STOP ON TWO SUBJECTS. FOUND METH AND METH PIPE. EVIDENCE WAS BOOKED 6 DAYS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
15	16-202149	08/09/2016 13:08:55	23 DAYS	BIKE STOP ON A SUBJECT CARRYING A METH PIPE IN HIS HAND. PIPE WAS BOOKED INTO EVIDENCE 23 DAYS LATER. REPORT STATES: "I...MAINTAINED POSSESSION OF THE EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
16	16-208899	08/15/2016 19:27:49	17 DAYS	BIKE STOP ON A FEMALE. FOUND METH. EVIDENCE WAS BOOKED 17 DAYS LATER. REPORT STATES: "I...MAINTAINED POSSESSION OF THE EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
17	16-232715	09/07/2016 16:28:35	68 DAYS	PED STOP ON A MALE AND TWO METH PIPES WERE FOUND. THE REPORT WAS SUBMITTED AND THE DA FILED CHARGES ON 10-25-16. ON 11-3-16 JUDGE ISSUED A WARRANT FOR SUSPECTS ARREST. ON 11-14-16 (68 DAYS AFTER THE INCIDENT) THE EVIDENCE WAS BOOKED. ON 11-19-16 SUSPECT IS ARRESTED FOR THE WARRANT.
18	16-238948	09/13/2016 21:43:51	99 DAYS	PED STOP IN A PARKING LOT. FOUND 1.9 GRAMS OF METH. EVIDENCE WAS BOOKED 99 DAYS LATER. SAME DAY THE REPORT WAS WRITTEN. REPORT STATES: "I MAINTAINED POSSESSION OF THE EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
19	16-253274	09/27/2016 20:15:43	XXX	OCCUPIED STOLEN VEHICLE WITH THREE SUBJECTS DETAINED. ONE OF THE SUBJECTS WAS IN POSSESSION OF METHAMPHETAMINE AND A PIPE. THERE WERE ALSO PHOTOS AND INTERVIEWS BURNED TO A CD. NOTHING WAS EVER BOOKED INTO EVIDENCE. CHECKED USING SUSPECT NAMES AND DR NUMBERS WITH NEGATIVE RESULTS. SUSPECT PLED GUILTY FOR STOLEN VEHICLE ON 6-26-17.
20	16-262482	10/06/2016 15:00:00	39 DAYS	PED STOP AND FOUND ABOUT .5 GRAMS OF METHAMPHETAMINE. 38 DAYS LATER THE EVIDENCE WAS BOOKED. REPORT STATES: "I MAINTAINED POSSESSION OF THE EVIDENCE UNTIL I BOOKED IT INTO THE SHERIFF'S EVIDENCE LOCKER."

21	16-274054	10/18/2016 21:45:14	64 DAYS	PED STOP ON A SUBJECT FOR DRINKING IN PUBLIC. FOUND A KNIFE HIDDEN IN THE SUBJECT'S WAIST. COLLECTED KNIFE. THE KNIFE WAS BOOKED 64 DAYS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER." REPORT ALSO LISTS A CD WITH PHOTOS. BUT REMEDY DOES NOT SHOW THE DISC AS BEING BOOKED IN.
22	16-282038	11/14/2016 16:04:58	37 DAYS	BIKE STOP ON A SUBJECT FOR FAILING TO OBEY TRAFFIC SIGNAL. SUBJECT WAS FOUND IN POSSESSION OF A METH PIPE. EVIDENCE WAS BOOKED 37 DAYS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
23	16-284164	11/30/2016 20:11:17	21 DAYS	PROBATION SEARCH OF A RESIDENCE. DRUGS AND PARAPHERNALIA WERE FOUND. THE EVIDENCE WAS BOOKED 21 DAYS LATER. THE REPORT STATES: "I MAINTAINED POSSESSION OF ALL THE EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
24	16-285188	12/08/2016 12:21:36	46 DAYS	JUVIE PROBATIONER FOUND IN POSSESSION OF METH. JUVIE WAS BOOKED INTO JUVIE HALL. EVIDENCE WAS BOOKED 46 DAYS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF THE EVIDENCE UNTIL IT WAS BOOKED INTO THE ORANGE COUNTY SHERIFF'S EVIDENCE LOCKER."
25	16-286829	12/19/2016 19:29:26	35 DAYS	PROBATION SEARCH WHERE A SUBJECT WAS FOUND IN POSSESSION OF PARAPHERNALIA. THE EVIDENCE WAS BOOKED 35 DAYS LATER. THE REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
26	17-000352	01/03/2017 21:15:08	20 DAYS	PED STOP ON A SUBJECT FOUND TO BE IN POSSESSION OF MARIJUANA. THE EVIDENCE WAS BOOKED 20 DAYS LATER. THE REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
27	17-006368	02/16/2017 18:33:00	4 DAYS	PAROLE SEARCH OF A RESIDENCE. COLLECTED A HANDGUN, METH, PARAPHERNALIA, AND OTHER ITEMS. EVIDENCE WAS BOOKED FOUR DAYS LATER. REPORT STATES: "I COLLECTED ALL EVIDENCE AND MAINTAINED POSSESSION OF IT UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
28	17-011417	03/23/2017 23:47:00	48 DAYS	PED STOP IN A PARK. SUBJECT WAS FOUND TO BE IN POSSESSION OF HEROIN. EVIDENCE WAS COLLECTED AND BOOKED 48 DAYS LATER. REPORT STATES: "I MAINTAINED POSSESSION OF ALL EVIDENCE UNTIL IT WAS BOOKED INTO THE SHERIFF'S EVIDENCE LOCKER."
29	17-014889	04/18/2017 13:24:00	22 DAYS	CAR STOP. LOCATED THREE KNIVES AND A HANDBAG THAT WERE COLLECTED AS EVIDENCE. TWO SUBJECTS WERE ARRESTED AND BOOKED INTO OCL. THE EVIDENCE WAS BOOKED 22 DAYS LATER. [REDACTED] WAS THE ONLY ONE TO HAVE CRIMINAL CHARGES FILED. HE BAILED OUT OF JAIL NO 4-20-17 AND WAS ORDERED BACK TO COURT ON 5-16-17.

30	17-016034	04/26/2017 17:03:00	27 DAYS	PED STOP ON A MALE SUBJECT FOUND TO BE IN POSSESSION OF THREE METH PIPES. THE PIPES WERE COLLECTED AND THE SUBJECT WAS RELEASED AT THE SCENE. THE PIPES WERE BOOKED INTO EVIDENCE 27 DAYS LATER. IN THE EVIDENCE COMPUTER AVALOS NOTED THAT HE HAD COLLECTED THE PIPES ON "5-3-17" WHICH IS NOT THE CORRECT DATE.
31	17-016372	04/28/2017 20:08:00	25 DAYS	CAR STOP BY DEPUTY A. ALVAREZ. DEPUTY AVALOS RESPONDED TO ASSIST AND ENDED UP LOCATING A MACHETE AND 3.3 GRAMS OF COCAINE IN THE VEHICLE. THE COCAINE WAS BOOKED INTO EVIDENCE 25 DAYS LATER ON 5-23-17. DURING THE INCIDENT, [REDACTED] WAS ARRESTED FOR THE MACHETE AND BOOKED INTO OCJ. THE MACHETE WAS NOT BOOKED INTO EVIDENCE UNTIL 9 MONTHS LATER ON 1-23-18. DA REJECTED THE CASE AGAINST [REDACTED] FOR LACK OF SUFFICIENT EVIDENCE. [REDACTED] WAS CHARGED WITH THE COCAINE AND LATER PLEADED GUILTY ON 1-18-18.
32	17-017347	05/04/2017 14:09:00	19 DAYS	PED STOP ON A MALE SUBJECT FOUND TO BE IN POSSESSION OF METHAMPHETAMINE. 1/4 GRAMS OF METH WAS COLLECTED AND BOOKED INTO EVIDENCE 19 DAYS LATER. NO CHARGES WERE EVER FILED BASED ON THIS REPORT.
33	17-021823	06/05/2017 14:34:00	8 DAYS	VEHICLE STOP WHERE A SUBJECT WAS FOUND IN POSSESSION OF TWO KNIVES AND GANG INDICIA. ITEMS WERE COLLECTED AND THE SUBJECT WAS RELEASED. THE ITEMS WERE BOOKED INTO EVIDENCE 8 DAYS LATER. THE CASE HAS BEEN SUBMITTED TO THE DA BUT NO CHARGES HAVE BEEN FILED YET.
34	17-021846	06/05/2017 16:23:00	8 DAYS	PAROLE SEARCH OF A RESIDENCE. PAROLEE WAS FOUND IN POSSESSION OF TWO METH PIPES AND A SYRINGE. PAROLEE [REDACTED] WAS ARRESTED AND BOOKED INTO OCJ. THE ITEMS WERE COLLECTED AND BOOKED INTO EVIDENCE 8 DAYS LATER. THE DA REJECTED THE CASE AND CHARGES WERE NOT FILED.
35	17-025126	06/28/2017 16:05:00	28 DAYS	PROBATION SEARCH OF A RESIDENCE. DRUGS AND PARAPHERNALIA WERE FOUND INSIDE. EVIDENCE WAS COLLECTED AND BOOKED 28 DAYS LATER. IN OCTOBER OF 2017, THE DA FILED CHARGES AND THERE IS AN ACTIVE WARRANT FOR THE SUSPECT'S ARREST.
36	17-025771	07/03/2017 10:24:00	23 DAYS	PED STOP ON A KNOWN GANG MEMBER. THE REPORT STATES THE INCIDENT TOOK PLACE ON 6-13-17 BUT THE REPORT NUMBER WAS NOT REQUESTED UNTIL 7-3-17. DURING THIS INCIDENT [REDACTED] WAS FOUND TO BE IN POSSESSION OF A METH PIPE. THE PIPE WAS COLLECTED AND BOOKED INTO EVIDENCE 23 DAYS LATER. CHARGES WERE FILED AGAINST [REDACTED] BY THE DA BUT HE HAS NOT YET APPEARED IN COURT.
37	17-026068	07/05/2017 14:08:00	6 DAYS	VEHICLE STOP WHERE PARAPHERNALIA WAS FOUND IN THE VEHICLE. REPORT WAS WRITTEN BY [REDACTED] AND EVIDENCE WAS BOOKED BY [REDACTED]. REPORT STATES AVALOS WAS PRESENT DURING THE INCIDENT.

38	17-026127	07/05/2017 23:28:00	33 DAYS	PAROLE SEARCH OF A VEHICLE. PARAPHERNALIA AND HEROIN WERE FOUND. ITEMS WERE COLLECTED AND BOOKED INTO EVIDENCE 33 DAYS LATER. THE SUSPECT, [REDACTED], WAS ARRESTED FOR A WARRANT AND BOOKED INTO JAIL. IN OCTOBER OF 2017 CHARGES RELATED TO THE INCIDENT WERE FILED AND A WARRANT WAS ISSUED FOR [REDACTED] ARREST. THE WARRANT IS STILL ACTIVE.
39	17-028151	07/19/2017 19:01:00	19 DAYS	PED STOP ON TWO SUBJECTS. FOUND METH AND A PIPE. EVIDENCE WAS COLLECTED DURING THE INCIDENT AND THEN BOOKED 19 DAYS LATER. ON 8-28-17 CHARGES WERE FILED AGAINST BOTH SUBJECTS. ONE SUBJECT PLEADED GUILTY AND THE OTHER IS STILL IN THE COURT PROCESS BUT IS NOT IN CUSTODY.
40	17-028164	07/19/2017 20:24:00	XXX	PED STOP OF [REDACTED] AND [REDACTED] METH AND A METH PIPE WERE FOUND. [REDACTED] WAS ARRESTED FOR VIOLATING TERMS OF HIS PAROLE. THE OTHER SUBJECTS WERE RELEASED. THE REPORT STATES THAT DEPUTY AVALOS MAINTAINED POSSESSION OF THE EVIDENCE (DRUGS AND PIPE) UNTIL IT WAS BOOKED. A CHECK OF THE EVIDENCE SYSTEM SHOWED NO EVIDENCE WAS BOOKED FOR THIS CASE. I ALSO CHECKED USING THE SUSPECT'S NAME BUT COULD NOT FIND ANYTHING BOOKED RELATED TO THIS CASE. NO CRIMINAL CHARGES HAVE BEEN FILED RELATED TO THIS CASE.
41	17-031419	08/10/2017 13:26:00	LESS THAN 1 DAY	VEHICLE STOP WHERE A NARCOTICS SALES INVESTIGATION WAS CONDUCTED. A LARGE AMOUNT OF HEROIN, METH, AND COCAINE WERE SEIZED. THE EVIDENCE WAS COLLECTED AND BOOKED IN ACCORDANCE WITH POLICY AT THE END OF THE SHIFT.
42	17-032973	08/21/2017 18:31:00	15 DAYS	PED STOP ON A PAROLEE. HEROIN AND SYRINGES WERE FOUND ON THE SUBJECT AND AT THE SUBJECT'S RESIDENCE. THE ITEMS COLLECTED DURING THIS INCIDENT WERE BOOKED IN ON 9-5-17 (15 DAYS LATER). THERE WAS ALSO AN ADDITIONAL ITEM, A GLASSES CASE, BOOKED IN UNDER THIS DR THAT IS NOT LISTED OR MENTIONED IN THE REPORT. IN THE EVIDENCE SYSTEM, THE BOOKING DEPUTY STATED THE ITEMS WERE COLLECTED ON 9-5-17 NOT ON 8-21-17 (THE INCIDENT DATE).
43	17-036369	09/14/2017 10:49:00	14 DAYS	PROBATION SEARCH OF A RESIDENCE AND PARAPHERNALIA WAS FOUND. THE ITEMS WERE COLLECTED AND BOOKED INTO EVIDENCE 14 DAYS LATER. THE DA FILED CHARGES AND THE SUSPECT PLED GUILTY ON 3-9-18.
44	17-038111	09/26/2017 10:41:00	2 DAYS	WARRANT ARREST OF [REDACTED] A PINK CELL PHONE, A PINK TASER, METH, HEROIN, AND AN UNKNOWN PILL WERE BOOKED IN. THERE IS NO REPORT LISTING WHERE THESE ITEMS WERE FOUND OR COLLECTED FROM.
45	17-046144	11/21/2017 12:20:00	35 DAYS	PED STOP ON A SUBJECT FOUND TO BE IN POSSESSION OF PARAPHERNALIA. THE PIPE WAS COLLECTED DURING THE INCIDENT AND BOOKED 28 DAYS LATER.
46	17-046876	11/27/2017 12:16:00	56 DAYS	OCCUPIED VEHICLE WHERE A SUBJECT WAS FOUND IN POSSESSION OF METHAMPHETAMINE. THE EVIDENCE WAS COLLECTED AT THE SCENE AND THEN BOOKED 56 DAYS LATER.

47	17-049986	12/18/2017 10:21:00	7 DAYS	PROBATION SEARCH OF A RESIDENCE. PROBATIONER WAS FOUND IN POSSESSION OF METHAMPHETAMINE/PARAPHERNALIA. THE SUSPECT WAS ARRESTED FOR VIOLATING HIS PROBATION.
48	17-050007	12/18/2017 11:51:00	8-35 DAYS	PROBATION SEARCH OF A RESIDENCE. SUBJECT WAS FOUND IN POSSESSION OF A REPLICAS ASSAULT RIFLE, SHOTGUN AMMUNITION, AND GANG INDICIA. ALL OF THESE ITEMS WERE COLLECTED OR PHOTOGRAPHED AT THE SCENE ON 12-18-17. THE AMMUNITION WAS BOOKED INTO EVIDENCE 8 DAYS LATER ON 12-26-17. THE REPLICAS RIFLE WAS BOOKED 35 DAYS AFTER THE INCIDENT ON 1-22-18. THE REPORT DOES NOT STATE ANYTHING ABOUT THE DIFFERENT BOOKING DAYS.
49	18-000222	01/02/2018 18:09:00	LESS THAN 1 DAY	STOLEN VEHICLE CASE. ONLY ITEMS BOOKED WERE FOR SAFEKEEPING. NO EVIDENCE COLLECTED.
50	18-000382	01/03/2018 17:54:00	19 DAYS	PEDESTRIAN STOP ON TWO SUBJECTS. LOCATED HEROIN ON ONE OF THEM. EVIDENCE WAS COLLECTED AND BOOKED 19 DAYS LATER.
51	18-003423	01/24/2018 15:01:00	LESS THAN 1 DAY	INCIDENT WAS AN ATTEMPT WARRANT ARREST THAT TURNED INTO A PURSUIT AND USE OF FORCE. MULTIPLE AGENCIES, DETAILS, DEPUTIES, AND INVESTIGATORS WERE INVOLVED. ALL EVIDENCE COLLECTED WAS BOOKED AT THE END OF THE SHIFT.

Summary of Evidence Booking:

Of the case numbers where evidence was booked in, Deputy Avalos booked evidence:

- o 0-1 DAYS: 4 times
- o 2-7 DAYS: 7 times
- o 8-29 DAYS: 24 times
- o 30 DAYS AND OVER: 15 times
- o NEVER*: 2 times

**In these two incidents the evidence could not be accounted for.*

Search for Missing Evidence Items:

For the items that were believed to be missing, there was a thorough search of the Sheriff's Evidence System conducted in an effort to locate them. The search used the DR number, the suspect name(s), the date of the incident, the Deputy name(s), assignment, location, and item description. Each of these parameters were searched both individually and together. Nothing was found during this search. SSO. A. Medina #4943 with Sheriff's Property/Evidence also performed a search for the missing items. He was unable to locate them.

Report Summary (17-016372) – #31 in table above

On 4-28-17, Deputy P. Alvarez conducted a traffic stop in the area of [REDACTED] in the City of Anaheim. Deputy Alvarez detained three suspected gang members in the vehicle. During the incident, Deputy Avalos (North Gang Enforcement Team – GET) was called to assist and responded to Deputy Alvarez's location. Both Deputy Avalos and Deputy Alvarez submitted reports related to this incident. Deputy Alvarez's report covers the details of the initial vehicle stop, initial contact of the subjects, the arrival of Deputy Avalos, and the citation Deputy Alvarez issued to the driver of the vehicle. Deputy Avalos' report covers the search of the vehicle, the collection of evidence, interviews of the suspects, the arrest of one of the suspects, and the booking of evidence. In Deputy Avalos' report, he states that he located and collected 3.3 grams of suspected cocaine and a SOG machete. The last line of the report states, "I maintained possession of all evidence until it was booked into the

Sheriff's evidence locker." The 3.3 grams of suspect cocaine was booked on 5-23-17 (25 days after the incident). The SOG machete was booked on 1-23-18 (270 days after the incident). Criminal charges were filed on 9-1-17 against the suspect, ██████████ for possession of the cocaine. ██████████ pled guilty on 1-18-18 and was sentenced to 60 days in jail. Charges were never filed against the other suspect related to the SOG machete.

Report Summary (17-028164) – #40 in table above

On 7-19-17, Deputy Avalos and Deputy ██████████ conducted a pedestrian stop on three subjects in an alley near ██████████ in the City of Stanton. Deputy Avalos wrote the only report related to this incident. One of the three subjects contacted was on parole and subject to gang injunction terms. The report prepared by Deputy Avalos states that during the incident he located and collected "One used glass methamphetamine smoking pipe with burnt white residue in it" and "One piece of clear plastic containing about 1 gram of methamphetamine." The second to last line of the report states, "I collected and maintained possession of all evidence until it was booked into the sheriff's evidence locker."

A check of the Remedy Evidence System showed that no items had been booked under this case number. I checked the system again using each of the three contacted subjects' names, variation of Deputy Avalos' credentials, and the date of the incident (collection date). All of the searches had negatives results and the evidence cannot be located or accounted for.

No new criminal charges were filed related to this case or the evidence collected. One of the three suspects, ██████████ was found to be in violation of his parole. The violation was based on ██████████ being in a gang area, associating with other gang members, and the narcotics/paraphernalia discovered during the incident.

Report Summary (16-253274) – #19 in table above

On 9-27-16, Deputy P. Avalos, Deputy ██████████ and Deputy B. Garcia #6408 [Deputy Garcia has since been promoted to Investigator and will be referred to as Investigator Garcia for the remainder of this report] were working their assigned positions with the North Gang Enforcement Team. Deputies Avalos and ██████████ contacted two subjects near what would later be determined was a stolen vehicle in the area of Santa Rosalia and Orangewood in the City of Stanton. Deputy Avalos wrote the only reports about the incident. The report states that the male suspect, ██████████ was arrested for possession of the stolen vehicle. The other suspect, ██████████ was found to be in possession of methamphetamine and paraphernalia. The report states that Deputy Avalos collected "One compact disc containing photos from the scene and interview recordings", "One glass methamphetamine smoking pipe with burnt white residue in it", and "One small clear zip lock baggie containing about .3 grams of methamphetamine." The final line of Deputy Avalos' report states, "The photos and recorded interviews were transferred to a compact disc which was booked into the sheriff's evidence locker along with the contraband located in association with ██████████ Deputy Avalos also prepared an Addendum to Auto Theft Arrest Report. Box number "40" of this report asks if the vehicle was searched and if anything was collected. Deputy Avalos checked the "YES" box indicating the vehicle was searched but then under evidence collected he stated, "NONE."

A check of the Remedy Evidence System showed that no items had been booked under this case number. I checked the system again using each of the two suspects names, variation of Deputy Avalos' credentials, and

the date of the incident (collection date). All of the searches had negative results and the evidence cannot be located or accounted for.

No criminal charges were filed against [REDACTED] from this incident. [REDACTED] pleaded guilty to crimes related to the stolen vehicle but not to any drug related charges.

****All of the below sections are synopsis of interviews. They are organized for fluidity and understandability. They are not always in exact chronological order.**

Interview with Investigator Garcia:

On 4-16-18, at about 1015 hours, I spoke with Investigator Garcia on the phone. I had emailed Investigator Garcia earlier in the morning and requested to interview him regarding DR 16-253274. Investigator Garcia said he had looked up the DR and tried to refresh his memory. Investigator Garcia also checked and confirmed that he had no notes or records related to the incident. I asked him if he remembered the incident. Investigator Garcia said he had only a vague recollection of the incident involving a stolen vehicle. Investigator Garcia could not provide any further details related to the incident or evidence collected during the incident.

Interview with Deputy [REDACTED]

On 4-18-18, at about 1355 hours, I spoke with Deputy [REDACTED] on the phone. I had emailed Deputy [REDACTED] on 4-16-18 and requested to interview him about his involvement in DR 16-253274 and 17-028164. Deputy [REDACTED] looked up the reports for the incidents in an effort to refresh his memory. Deputy [REDACTED] also checked and confirmed that he had no notes or records from these incidents. Deputy [REDACTED] said he remembered some parts of the incident but not all the specific details. He said that both incidents were handled by Deputy Avalos. He believes that there was evidence collected but does not know what it was. Deputy [REDACTED] said he did not collect any evidence and does not know who did. Deputy [REDACTED] was not able to provide any further details about the incident.

Interview with Deputy Alvarez:

On 4-30-18, at about 1915 hours, I spoke with Deputy Alvarez on the phone. I advised Deputy Alvarez that I wanted to interview him about DR 17-016372. Prior to the interview, Deputy Alvarez tried to refresh his memory of incident by reading his report. Deputy Alvarez was not able to provide me with any additional details that were not included in the report of the incident. Deputy Alvarez said he could only vaguely remember the incident and did not remember anything specific about the collection or booking of evidence.

Interview with Deputy Avalos:

On 4-26-18, at about 1225 hours, I interviewed Deputy Avalos about this investigation. The interview took place in the conference room at AOCDS, located at 1600 N Main, in the City of Santa Ana. Deputy Avalos was accompanied by his Attorney Bob Gazely. Also present during the interview was Sergeant J. Montano. The interview was recorded and a copy of that recording was booked into Sheriff's Evidence. The following is meant as a synopsis of the interview, for further details refer to the audio recording. Prior to asking any questions, I read Deputy Avalos his Miranda Rights from my department issued Miranda card. Deputy Avalos said he understood his rights and agreed to speak with me. I explained why the interview was taking place and how his name had been flagged for further investigation. Deputy Avalos said he understood.

I asked Deputy Avalos about the normal process he goes through after he collects evidence. Deputy Avalos said he always maintains possession of evidence until the report is written and submitted. If he is in the field, he uses his lockable rifle case as an evidence storage box. The rifle box is secured in the trunk of his county issued unmarked rental vehicle. If he is able to make it to the office (located at Sheriff's Headquarters) he locks the evidence in his desk. Deputy Avalos is the only one with keys to his rifle box and to his desk. Deputy Avalos prefers to keep the evidence on hand to aide him while writing his reports.

I asked Deputy Avalos about DR 17-016372 and the evidence recovered during that incident. Deputy Avalos said he remembered the incident and the collection of evidence that took place. I asked him specifically about the SOG machete he had listed in the report as evidence and how long it took him to book the item. Deputy Avalos said it took him months to book it. I asked why there was such a long delay. Deputy Avalos said the machete had slipped between and underneath some of his gear bags in the trunk of his car. He said it was only found during a complete search of his vehicle that he performed on his own. Once the machete was found, he immediately booked it into evidence. Deputy Avalos did not write a report or notify anyone of the delay.

I asked Deputy Avalos about DR 17-028164 and the evidence collected during this incident. I gave Deputy Avalos a synopsis of the events he reported and the names of the subject from the incident. Deputy Avalos said he remembered the incident and the collection of evidence. He said he remembered collecting a methamphetamine pipe and methamphetamine from the subjects. Deputy Avalos said the evidence would have been handled in the same way as before. It would first be secured in his trunk, then moved to his desk until the report was written, and then would be booked into evidence. I explained that the evidence from this case was never booked into Sheriff's Evidence. Deputy Avalos thought he remembered finding the evidence from this incident and believed he booked it much later after the incident. Deputy Avalos then said that he did not specifically remember booking the evidence and that it is possible that it was lost at some point. I asked Deputy Avalos if he kept the evidence for personal use and he said he did not. I asked Deputy Avalos if he kept the evidence to give away or sell and he said he did not.

I asked Deputy Avalos about DR 16-253274 and the evidence collected during this incident. I gave Deputy Avalos a synopsis of the events from the incident. Deputy Avalos said he remembered the incident. Deputy Avalos said he remembered collecting the methamphetamine and the methamphetamine pipe from the female suspect. I asked if he knew what happened to the evidence after the items were collected. Deputy Avalos said he believes he would have used the same process of securing the items in his trunk or desk until the report was written. Deputy Avalos said that if the items were not booked under this DR number then they were probably lost. Deputy Avalos said he did not specifically remember booking or not booking the items related to this incident. I asked Deputy Avalos if he kept the evidence for personal use and he said he did not. I asked Deputy Avalos if the items were taken to be sold and he said, "Absolutely not." I asked if the items were taken to be given away and he said, "Absolutely not."

During the interview, Deputy Avalos referred to his personal booking procedure as "bad habits." I asked him what he meant by that. Deputy Avalos explained that he now realizes that what he was doing was not the best practice. His routine or personal procedure for booking evidence was in an effort to spend less time in the office and more time helping his partners or search for criminal activity. This practice eventually led to poor endings to cases. Deputy Avalos said he is disappointed and this is not how he wants to portray himself.

I asked for and was granted consent to search Deputy Avalos' work vehicle, desk, cabinets, and unit safe. I first went to the parking lot and completed a search of Deputy Avalos' county issued rental vehicle. There was nothing found in the vehicle. We then went to Sheriff's Headquarters and Deputy Avalos unlocked all of his desk and cabinet doors so that I could search them. Nothing of note was found. I checked the safe located in the Sergeant's office and there was no evidence or items of note inside.

I concluded my interview of Deputy Avalos and told him that I would be preparing a report about my investigation and this interview.

End of report.

INTERNAL AFFAIRS INVESTIGATION

Background:

Both the Internal Criminal and the Internal Affairs investigations revealed fifty-one (51) incidents where Avalos collected evidence from 02-10-16 through 01-24-18. **See pages 8 through 13 of this memo for further details.** Out of those fifty-one (51) incidents, Avalos booked forty-six (46) of those days or weeks later. Of the case numbers where evidence was booked in, Deputy Avalos booked evidence:

- 0-1 DAYS: 5 times
- 2-7 DAYS: 7 times
- 8-29 DAYS: 24 times
- 30 DAYS AND OVER: 15 times
- NEVER*: 2 times

There were two (2) instances where we were unable to locate any evidence booked in (although Avalos describes collecting evidence in his reports) and contained the following items: .3 grams of methamphetamine, pipe, photo CD, car key, and key fob. **See narrative below for further details regarding these incidents.**

District Attorney (DA) Case Related Information:

Of the two incidents where no evidence was in Remedy, there was one (1) incident where a suspect pled guilty and served jail time. The missing items in this case were a photo CD, a car key, and a key fob. **Note: The suspect pleaded guilty to violations of CPC 496d (a) and CVC 10851(a) on 06-26-17. He was placed on 3 years of formal probation and ordered to serve 180 days in jail. See narrative below for further details regarding this incident.**

Interview of Deputy Phil Avalos/Representative Samantha Swanson– January 23rd, 2019/1230 Hours

On January 23rd, 2019, at approximately 1230 hours, Sergeant Mauga and I interviewed Deputy Phil Avalos in the Internal Affairs office. Also present was AOCDS representative/attorney Samantha Swanson. Prior to going on recording, I had Avalos review and sign the Public Safety Procedural Bill of Rights, the Confidentiality Directive and the Miranda/Lybarger Admonishment. The interview was audio recorded. The following is a summary of that interview, for details see the actual recording:

Note: On April 26th, 2018, Deputy Avalos was previously interviewed extensively by Investigator [REDACTED] and myself (Sergeant J. Montano) relating to the Internal Criminal investigation. Due to the repetitive nature of the Internal Criminal interview and the Internal Affairs interview I conducted, I will document those items of relevance in relation to this Personnel Investigation.

Avalos has worked for the Orange County Sheriff's Department for approximately seventeen (17) years. He has been assigned to North Gang Enforcement Team (NGET) for the past 4 years. Avalos is familiar with the Department's policies and procedures and knows how to access Lexipol and the policy manual.

I asked Avalos if he recalled being interviewed by OCSO Investigator [REDACTED] and myself on 04-26-18 regarding an Internal Criminal investigation into possible evidence related issues. Avalos recalled the interview and stated everything he told us then was accurate.

Note: I provided Avalos and his representative copies of the 51 item chart (pages 8 through 13 of this memo) relating to this investigation. I asked Avalos if the information on the chart appeared accurate. He replied, "Yes." Due to the totalities of Avalos possibly violating various policies, I did not go over in detail each of the 51 incidents. I concentrated on specific cases highlighted below.

DR Review of "Missing" Evidence Cases:

- ***DR 16-253274 (Chart #19):*** I asked Avalos about this incident where on 09-27-16, he collected a CD of photos, a meth pipe, a single key/key fob and a clear Ziploc baggie containing methamphetamine as evidence. ***However, no evidence was found in Remedy relating to this DR.*** Avalos told us he recalled this incident and collecting the items. I asked Avalos if he recalled what he did with the items after he collected them. Avalos could not recall what he did with the items. Avalos could not provide any other pertinent details. ***Note: One suspect pleaded guilty to violations of CPC 496d (a) and CVC 10851(a) on 06-26-17. He was placed on 3 years of formal probation and ordered to serve 180 days in jail.***
- ***DR 17-028164 (Chart #40):*** I asked Avalos about this incident where on 07-19-17, he conducted a "ped stop" of multiple subjects. Avalos collected methamphetamine and a meth pipe as evidence. ***However, no evidence was found in Remedy relating to this DR.*** Avalos recalled this incident and recalled collecting the items. He did not recall what he did with the items after he collected them or if he booked them in. Avalos could not provide any other pertinent details.

Avalos stated his normal procedure regarding evidence collection would have been to collect and package the evidence then place it in the trunk of his work vehicle. If he got off work late and he wasn't by an evidence booking location he would keep it until the next day. The next day if he didn't book it, he would take the evidence to his office and keep it in his locked desk drawer or the office safe. Avalos stated he was the only person to have access to his desk locked drawer. His team members had access to the office safe.

I asked Avalos if he ever located the missing evidence listed above. Avalos stated he did not locate the evidence but did search for it. Avalos told us when he wrote in his DR's that he "maintained possession of the evidence until it was booked into the Sheriff's evidence locker", he was using that statement as a "template"; meaning he wrote the report before he booked in the evidence. Avalos stated his intention is to always collect the evidence, package it properly, and book it into evidence.

Avalos denied using any of the missing evidence for personal use including using, selling, destroying, or giving evidence away.

DR Review of “Booked Late” Evidence Cases (Partial):

- **DR 16-238948 (Chart #18):** I asked Avalos about this incident where on 09-13-16 he conducted a “ped stop” on a subject and collected 1.9 grams of methamphetamine as evidence. ***The evidence was booked 99 days later, the same day the DR was written.*** Avalos recalled collecting the methamphetamine but did not recall what he did with the methamphetamine after collecting it. Avalos could not recall where he stored the methamphetamine for the 99 days but stated it was most likely in his desk drawer in the GET office.

I asked Avalos what his “process” was when he would hold onto evidence for long periods of time. Avalos stated sometimes he would hold onto it to “further the investigation.” ***Note: This wasn’t for all his cases but some of them.*** When the report was done, Avalos stated he would book in the evidence. Avalos stated it was common practice for GET deputies to use their locked desk drawers or the office safe to store evidence until booking.

- **DR 17-011417 (Chart #28):** I asked Avalos about this incident where on 03-23-17 he conducted a “ped stop” on a subject and collected approximately 2.8 grams of heroin as evidence. ***The evidence was booked 48 days later, the same day the DR was written.*** Avalos recalled collecting the heroin but did not recall what he did with the heroin after collecting it. Avalos believed it would have been his usual process of collecting the evidence, packaging it, then storing it in his work vehicle trunk. Avalos did not recall where he stored the heroin for the 48 days.

I asked Avalos what his reasoning was for holding onto evidence longer than one day. Avalos thought he was maintaining possession of the evidence until he completed his report. At that time, Avalos did not realize he was doing “anything wrong.”

- **DR 17-016372 (Chart #31):** I asked Avalos about this incident where on 04-28-17 he responded to a scene and collected a machete and approximately 3.3 grams of cocaine as evidence. ***The cocaine was booked 25 days later and the machete was booked in approximately nine (9) months later.*** Avalos recalled collecting the machete and 3.3 grams of cocaine. He could not recall what he did with the evidence after collecting it. Avalos stated the machete was “lost in the trunk” of his work vehicle. After hearing about a “potential audit” of evidence, Avalos cleaned out the trunk of his work vehicle and found the machete on the bottom (of his trunk) under some gear bags. Avalos then booked it the machete. ***Note: A suspect was arrested for possession of the machete but no charges were filed by the DA.***
- **DR 17-046144 (Chart #45):** I asked Avalos about this incident where on 11-21-17 he conducted a “ped stop” on a subject and collected a methamphetamine pipe as evidence. ***The evidence was booked 35 days later.*** Avalos recalled collecting the methamphetamine pipe but did not recall what he did with the methamphetamine pipe after collecting it. Avalos believes it would have been his “usual process” of

collecting the evidence, packaging it, then storing it in his work vehicle trunk area. Avalos did not recall where he stored the methamphetamine pipe for 35 days.

Avalos told us at no time did any supervisor give him permission to hold onto evidence during this investigation timeframe. Avalos denied holding onto any of these items of evidence for personal gain. Again, I asked Avalos what were some of the reasons he would hold onto evidence. Avalos stated sometimes it would be to continue an investigation, assisting other details, or if he was handling other gang related investigations. Avalos stated NGET is a "busy detail", not just with assigned cases but proactive ones as well. During the timeframe of this investigation, Avalos admitted he did not have an effective way of tracking his cases. **Note: It appears Avalos would frequently hold onto his evidence until he writes the reports. Most of his reports are written the same day as the evidence was booked in.**

I asked Avalos if he has thought about potential DA issues (since this investigation) reference these cases. Avalos stated he now sees "severe liability" issues not only for himself but the Department as well. Avalos stated there could be issues with his "credibility" in his reports as well as issues with testifying. Avalos stated he could see how these issues make him and the Department "look bad." Avalos told us during the timeframe of this investigation, he was not thinking about potential contamination issues or the proper chain of custody in regards to evidence.

Avalos stated he now books all evidence at the end of his shift. If he would need to keep evidence longer than a shift, he would get a supervisor's approval. Since he was made aware of this investigation, he has booked all of his evidence per policy. Avalos told us he is not aware of any other outstanding evidence relating to any of his cases.

Avalos representative, Samantha Swanson, confirmed with Avalos that he would keep any evidence he held in his trunk in a locked box; not out in the open. She also confirmed with Avalos that he was not intentionally violating policy during the timeframe of this investigation.

I had Avalos read out loud **OCSD Policy 1019.11- Tampering with Evidence** which states: *Members shall not fabricate, withhold, alter or destroy evidence of any kind. After, I asked him if he could see himself possibly violating this policy as it pertains to "withholding" evidence during the timeframe of this investigation. Avalos replied, "I do."*

I had Avalos read out loud **OCSD Policy 1001.2 – Canon of Ethics, Canon Two** which states: *Peace officers shall be aware of and shall use proper and ethical procedures in discharging their official duties and responsibilities. Standard 2.3 – Peace officers shall follow legal practices in such areas as interrogation, arrest or detention, searches, seizures, use of informants, and collection and preservation of evidence. I asked Avalos if he could see himself possibly violating the "collection and preservation" of evidence portion of the policy during the timeframe of this investigation. Avalos replied, "I do."*

I asked Avalos, knowing what he knows now, if he would have done anything differently in the past regarding evidentiary procedures. Avalos stated he would have done “a lot of things differently” such as following procedures and maintaining/booking in the evidence correctly. Avalos apologized for his actions and stated he correctly books in evidence per policy now. Avalos told us during the timeframe of this investigation, he was practicing “bad habits”; however, those bad habits have now been corrected. Avalos now “leads by example” and tries to ensure his team members book evidence in the proper way. Avalos was asked if he learned from his mistakes and he replied, “Oh yea.”

Avalos stated he has been truthful and honest with us during this interview.

End of interview.

Included and/or Attached for Review:

- Initial Action
- Internal Memorandums
- 1 CD containing the Internal Affairs interviews with Deputy Avalos
- Copy of Investigator [REDACTED] internal criminal investigation
- Copies of DR's associated with the IA interview of Avalos

DA Letter to Defendant



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TONY RACKAUCKAS

JIM TANIZAKI
CHIEF ASSISTANT D.A.

SCOTT ZIDBECK
SENIOR ASSISTANT D.A.
FELONY OPERATIONS IV

TRACY MILLER
SENIOR ASSISTANT D.A.
FELONY OPERATIONS III

EBRAHIM BAYTIEH
SENIOR ASSISTANT D.A.
FELONY OPERATIONS II

KEITH BOGARDUS
SENIOR ASSISTANT D.A.
FELONY OPERATIONS I

HOWARD P. GUNDY
SENIOR ASSISTANT D.A.
BRANCH COURT OPERATIONS

PAUL M. WALTERS
CHIEF
BUREAU OF INVESTIGATION

JENNY QIAN
DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

September 17, 2018

Office of the Public Defender
14 W. Civic Center Drive
Santa Ana, CA 92701
Attn: Deputy Public Defender Rachel Salazar

RE: People vs. [REDACTED]
Orange County Superior Court case no. [REDACTED] and
OCSD DR # 16-253274

Dear Ms. Salazar,

This letter is to notify you that evidence in the above referenced case, to wit: photographs of the stolen car, single key and key fob and the CD of the defendant's recorded interview, was never booked into evidence at the Orange County Sheriff's Department. On 6/26/17, [REDACTED] pled guilty to 10851(a) VC and 496d(a) PC as misdemeanors in case no. [REDACTED]. He was placed on 3 years of formal probation and ordered to serve 180 days in jail. Please let me know if you need additional information.

Sincerely,

SUSAN J. LAIRD
Orange County District Attorney's Office
Deputy District Attorney
Special Prosecutions Unit
714-347-8627
susan.laird@da.ocgov.com



REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://orangecountyda.org/>

MAIN OFFICE
401 CIVIC CENTER DR W
P.O. BOX 808
SANTA ANA, CA 92701
(714) 834-3800

NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92632
(714) 773-4480

WEST OFFICE
8141 13TH STREET
WESTMINSTER, CA 92683
(714) 898-7261

HARBOR OFFICE
4801 JAMBORÉE RD.
NEWPORT BEACH, CA 92660
(949) 476-4650

JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 935-7824

CENTRAL OFFICE
401 CIVIC CENTER DR. W
P.O. BOX 808
SANTA ANA, CA 92701
(714) 834-3952



ORANGE COUNTY SHERIFF'S DEPARTMENT

550 N. FLOWER STREET
SANTA ANA, CA 92703
714-647-7000
WWW.OCS.D.ORG

SHERIFF-CORONER
SANDRA HUTCHENS

P.I. #18-060

CONFIDENTIALITY DIRECTIVE

Deputy Phil Avalos, you are hereby ordered not to discuss this case (or any case in which you are a witness or a principal), using any form of communication, with anyone other than your employee representative, Internal Affairs Investigators or specific parties that may be designated by Internal Affairs.

For the purpose of this directive, the Internal Affairs Sergeant presenting this directive is your superior officer. Any violation of this directive may be considered a violation of Orange County Sheriff-Coroner Department Policy 1018.4 and subject you to possible discipline, up to and including dismissal.

OCSD Policy 1018.4 Insubordination

Members shall not be insubordinate. Intentional failure or refusal by any member of the department to obey a lawful order given by a superior officer shall be insubordination.

I have read and acknowledged the above admonition. I fully understand that I am required to make full, complete and truthful statements. Any refusal to do so will be considered insubordination, resulting in discipline up to and including termination.

Employee Signature

1-23-19

Date

Sergeant Signature

1-23-19

Date



ORANGE COUNTY SHERIFF'S DEPARTMENT

550 N. FLOWER STREET
SANTA ANA, CA 92703
714-647-7000
WWW.OCS.D.ORG

SHERIFF-CORONER
SANDRA HUTCHENS

P.I. #18-060

MIRANDA WARNING / LYBARGER ADMONISHMENT

Due to the nature of this administrative investigation, Government Code Section 3303(h) requires me to advise you of your rights. Therefore it is important that you understand that criminally:

- You have the right to remain silent. (Do you understand?)
- Anything you say may be used against you in court. (Do you understand?)
- You have the right to an attorney before and during any questioning. (Do you understand?)
- If you cannot afford an attorney, one will be appointed for you before questioning. (Do you understand?)

MIRANDA WAIVER

Waiver: With these rights in mind, would you like to speak to me?

YES

NO

I have read and acknowledge the above admonition and fully understand my Constitutional/Miranda Rights.

Employee Initials (PA)

LYBARGER WARNING

Deputy Phil Avalos, as a result of your refusal to waive your Miranda rights, and according to the Lybarger v- Los Angeles decision, I must advise you that the interview at this point will be administrative, and no part of this interview or information that is derived from this interview may be used in a criminal investigation. However, at the same time, since this is administrative, I must remind you that you must answer the questions and, should you refuse to answer any of the questions, that at some future date you may be charged with insubordination.

I have read and acknowledged the above Lybarger warning. I fully understand I am being compelled to answer any and all questions. Any refusal to do so will be considered insubordination, resulting in discipline up to and including termination.

Employee Initials (PA)

PA
Employee Signature

1-23-19
Date

JH
Sergeant Signature

1.23.19
Date



ORANGE COUNTY SHERIFF'S DEPARTMENT

550 N. FLOWER STREET
SANTA ANA, CA 92703
714-647-7000
WWW.OCS.D.ORG

SHERIFF-CORONER
SANDRA HUTCHENS

P.I. #18-060

PUBLIC SAFETY OFFICER PROCEDURAL BILL OF RIGHTS (POBOR)

You are being advised that your rights are fully outlined in the Public Safety Officers Procedural Bill of Rights Act, Government Code 3300-3311. Your rights include:

- 3303(b) You have the right to know who will be conducting the interview
- 3303(c) You have the right to know the nature of the investigation prior to the interview
- 3303(i) You have the right to have a representative of your choice present during the interview
- 3303(g) You have the right to record this interview with your own recorder
- 3303(g) Should it become necessary to interview you a second time reference this investigation, a copy of this interview will be made available to you prior to the second interview.

I have read and acknowledged the above advisement. I fully understand the above listed rights will be afforded me during this interview.

Employee Signature

1-23-19

Date

Sergeant Signature

1.23.19

Date

AVALOS, PHILIP (7204)

Rank: DEPUTY SHERIFF II
Bureau: Target/Injunction
Division:
Hire Date: 4/5/2002

Approved Date: 7/1/2011 4:30:50 PM [Print Detail](#)

[Print](#)

LAST COMM COMP TC WC IA RMB UOF

Cat Date RefNo Description

▼ AOT Total: 39
▼ TTC Total: 26
▼ STC Total: 45
▼ COMP Total: 1
▼ WC Total: 3
▼ Reserves Total: 1

Perishables/Mandatory

Status

PSP Firearms	Due by 12/31/2018
PSP Firearms	In Compliance
PSP ACT	In Compliance
PSP Tact comm	Due by 12/31/2018
PSP Driving	Due by 12/31/2018
PSP Driving	In Compliance

Disputed History

Thresholds

Disp. De

Date

Type

[Report Missing Items](#)



Case Report by Principal - PHILIP AVALOS

Print Date: 3/21/2018

<u>Case Number</u>	<u>Incident Date</u>	<u>Issue Date</u>	<u>Complete Date</u>	<u>Complaint Description</u>	<u>Disposition</u>
PI18-060 A	4/28/2017	03/21/2018		Deputy allegedly failed to book in evidence.	Criminal

Total Cases per Principal: 1