Case #	ORANGE COUNTY SHERIFF'S DEPARTMENT	POBOR DEADLINE
18-024		12/16/2018

PERSONNEL INVESTIGATION TRACKING CHECKLIST

The investigation for the above-referenced case in now complete and ready for assessment.

Distributed by PSD to Custody Operations/IRC (DIVISION) 10/30/2018 (DATE)

Within your Division, please assess the file from the perspective of individual accountablilty as wall as training, policy, and systems issues.

* PSD supervisors have reviewed the case. You should consider them a potential resource for a variety of questions and concerns as you proceed.

DIVISION TRACKING

Initial Review by: _____ (LIEUTENANT OR MANAGER) _____ (DATE)

DIVISION REVIEW

Division Review by: Capt M Ramirez (DIVISION COMMANDER) NOV 0 9 2018 (DATE)

☐ Disposition is *Unfounded* or *Not Sustained* or *Exonerated (Please circle a response if applicable)*

or

☐ Disposition within Division Authority (Written Reprimand - 24 Hours)

or

☐ Exceeds Division Authority; memo with recommendations forwarded to: _____ (COMMAND)

CONSTITUTIONAL POLICING ADVISOR REVIEW (*MANDATORY*)

Constitutional Policing Advisor (CPA) Mary Izadi at (714) 647-6136. The CPA is available to discuss any and all cases regardless of the discipline exposure.

Capt M. Ramirez NOV 0 9 2018

CONSULTED BY / DATE

EXECUTIVE COMMAND REVIEW (If applicable)

Executive Command Review by: _____ DATE: _____

PROCESSING

Returned to PSD for processing: _____ (DATE)

Employee Notification: _____ (DATE)

CASE MANAGEMENT NOTES

CASE#18-024

DATE	TIME	INVESTIGATION
1/11/18		Case Logged and received
7/24/18	1400	Interview with Deputy Bright
7/25/18	0533	Interview with Deputy Copeland
7/25/18	0748	Interview with Deputy Santo
7/25/18	0930	Interview with Deputy Jeong
7/25/18	1256	Interview with Deputy Trautman
7/25/18	1435	Interview with Lt/ Larsen
8/3/18	1625	Interview with Sgt. Castro
9/28/18	1500	Phone Interview with Sgt. A. Montoya
10/11/18	0900	Re-interview with Dep. Rigby
10/24/18	1600	Re-interview with Sgt. M. Castro
10/26/18		Submitted to the Lieutenant for review
10-30-18		LT. APPROVED. CDT

SHERIFF-CORONER DEPARTMENT
COUNTY OF ORANGE
CALIFORNIA

SANDRA HUTCHENS
SHERIFF-CORONER

P.I. # 18-024

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.

10/24/18 — 8/3/18

Sergeant Mark Castro — Date

8/3/18

Sergeant Vanessa Anderson — Date

10/24/18

ORANGE COUNTY
SHERIFF'S DEPARTMENT

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714-647-7000
WWW.OCSD.ORG

SHERIFF-CORONER
SANDRA HUTCHENS

P.I. #18-024

CONFIDENTIALITY DIRECTIVE

Sergeant Mark Castro, 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.

10/24/18

Sergeant Mark Castro

8/3/18

Date

Sergeant Vanessa Anderson

8/3/18

Date

10/24/18

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P.I. #18-024

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*** (NO circled)

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

Employee Initials ( )

LYBARGER WARNING

Sergeant Mark Castro, *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 ( )

10/24/18 — 8/3/18
Sergeant Mark Castro — *Date*

8/3/18
Sergeant Vanessa Anderson — *Date*

10/24/18

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- *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 *(MR)*

LYBARGER WARNING

Michael Rigby, *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 *(MR)*

Michael Rigby — 7-25-18 / 10-11-18 (Date)

Sergeant Vanessa Anderson #6522 — 7-25-18 / 10/11/18 (Date)

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CONFIDENTIALITY DIRECTIVE

Deputy Michael Rigby , 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.

Michael Rigby — 7-25-18 / 10-11-18 (Date)

Sergeant Vanessa Anderson #6522 — 7-25-18 (Date)

10/11/18

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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 — Date: 7-25-18 10-11-18

Sergeant Signature #6522 — Date: 7-25-18

10/11/18

SHERIFF-CORONER DEPARTMENT
COUNTY OF ORANGE
CALIFORNIA

SANDRA HUTCHENS
SHERIFF-CORONER

P.I. #18-024

CONFIDENTIALITY DIRECTIVE

Lt Eric Larsen, 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 Sergeants or specific parties that may be designated by Internal Affairs.

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OCSD Policy 1018.4 Insubordination

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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.

Lt. Eric Larsen — 7-25-18 Date

Sgt. Vanessa Anderson — 7-25-18 Date

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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*** (NO circled)

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

Employee Initials (KGT)

LYBARGER WARNING

Kenneth Trautman*, 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 (KGT)

Kenneth Trautman — 7-25-18 Date

Sergeant Vanessa Anderson — 7-25-18 Date

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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 — Date: 7-25-18

Sergeant Signature — Date: 7-25-18

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CONFIDENTIALITY DIRECTIVE

Deputy Kenneth Trautman, 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.

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K. Trautman

Kenneth Trautman

7-25-18

Date

Sergeant Vanessa Anderson

7-25-18

Date

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- *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*** (circled)

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

Employee Initials (JJ)

LYBARGER WARNING

June Jeong, *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 (JJ)

June Jeong — 7.25.18
Date

Sergeant Vanessa Anderson — 7-25-18
Date

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

Employee Signature — 7.25.18 — Date

Sergeant Signature — 7-25-18 — Date

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CONFIDENTIALITY DIRECTIVE

Deputy June Jeong , 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.

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June Jeong

7.25.18
Date

Sergeant Vanessa Anderson

7-25-18
Date

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- *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*** (NO)

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

Employee Initials (AC)

LYBARGER WARNING

Adam Copeland*, 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 (AC)

Adam Copeland — *Adam Copeland* — 7-25-18 — *Date*

Vanessa Anderson — *Sergeant Vanessa Anderson* — 7-25-18 — *Date*

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

Employee Signature — Date: 7-25-18

Sergeant Signature — Date: 7/25/18

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CONFIDENTIALITY DIRECTIVE

Deputy Adam Copeland, 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.

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Adam Copeland — Date: 7-25-18

Sergeant Vanessa Anderson — Date: 7-25-18

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- *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*** (NO)

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

Employee Initials AS)

LYBARGER WARNING

Alexander Santo*, 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 AS)

Alexander Santo — 7/25/18 Date

Sergeant Vanessa Anderson — 7/25/18 Date

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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 — Date: 7/25/18

Sergeant Signature — Date: 7/25/18

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CONFIDENTIALITY DIRECTIVE

Deputy Alexander Santo, 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.

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Alexander Santo — 7/25/18 — Date

Sergeant Vanessa Anderson — 7/25/18 — Date

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SHERIFF-CORONER
SANDRA HUTCHENS

P.I. #18-024

CONFIDENTIALITY DIRECTIVE

Deputy Daniel Rudisill , 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.

D Rudisill — Employee Signature — 7-24-18 — Date

Sgt. Vanessa Anderson — Sergeant Signature — 7-24-18 — Date

ORANGE COUNTY
SHERIFF'S DEPARTMENT

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

SHERIFF-CORONER
SANDRA HUTCHENS

P.I. #18-024

CONFIDENTIALITY DIRECTIVE

Deputy Christian Bright , 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.

Christian Bright
Deputy Christian Bright

7/24/18
Date

V. Anderson
Sergeant Vanessa Anderson

7/24/18
Date

OCSD Professional Standards Division

Case Report by Principal - JEONG, JUNE

Print Date: 5/10/2018

Case Number	Incident Date	Issue Date	Complete Date	Complaint Description	Disposition
PI18-024A	12/16/2017	01/10/2018		Deputies allegedly had several inconsistencies in there use of force reports on an inmate.	Pending

Total Cases per Principal: 1



JEONG, JUNE (10483)

Rank: DEPUTY SHERIFF I

Bureau: IRC (sworn A-J)

Division: IRC/TRANSPORTATION DIVISION

Hire Date: 6/23/2017

Approved Date:

Print Detail | Print

LAST | COMM | COMP | TC | WC | IA | RMB | UOF

Cat	Date	RefNo	Description
STC	Total: 3		
AOT	Total: 2		

Perishables/Mandatory	Status
PSP Firearms	Custody / Waived
PSP ACT	Custody / Waived
PSP Tact comm	Custody / Waived
PSP Driving	Custody / Waived
CPR	Expires by 10/18/2019

Disputed History | Thresholds

Disp. Da	Date	Type

Report Missing Items

Cannot add employee to Remedy. 1/11/17 DH

OCSD Professional Standards Division

Case Report by Principal - ALEXANDER T. SANTO

Print Date: 1/11/2018

Case Number	Incident Date	Issue Date	Complete Date	Complaint Description	Disposition
18-024 A	12/16/2017	01/10/2018		Deputies allegedly had several inconsistencies in there use of force reports on an inmate.	Pending
[redacted]					

Total Cases per Principal: 2

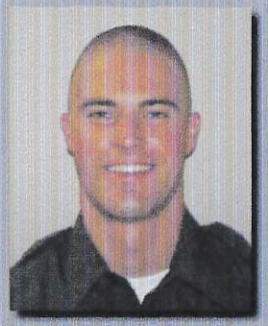
OCSD Professional Standards Division

Case Report by Principal - MICHAEL D. RIGBY

Print Date: 1/11/2018

Case Number	Incident Date	Issue Date	Complete Date	Complaint Description	Disposition
18-024 A	12/16/2017	01/10/2018		Deputies allegedly had several inconsistencies in there use of force reports on an inmate.	Pending

Total Cases per Principal: 1



RIGBY, MICHAEL (9605)

Rank: DEPUTY SHERIFF I

Bureau: IRC (sworn K-Z)

Division: IRC/TRANSPORTATION DIVISION

Hire Date: 7/14/2014

Approved Date: 11/6/2016 8:38:24 A

Print Detail | Print

LAST	COMM	COMP	TC	WC	IA	RMB	UOF

Cat	Date	RefNo	Description
TTC	Total: 5		
AOT	Total: 8		
STC	Total: 13		

Perishables/Mandatory	Status
PSP Firearms	Custody / Waived
PSP ACT	Custody / Waived
PSP Tact comm	Custody / Waived
PSP Driving	Custody / Waived
CPR	Expires by 4/24/2019

Disputed History | Thresholds

Disp. Da	Date	Type

Report Missing Items

OCSD Professional Standards Division

Case Report by Principal - ADAM J. COPELAND

Print Date: 1/11/2018

Case Number	Incident Date	Issue Date	Complete Date	Complaint Description	Disposition
18-024 A	12/16/2017	01/10/2018		Deputies allegedly had several inconsistencies in there use of force reports on an inmate.	Pending

Total Cases per Principal: 1



COPELAND, ADAM (9320)

Rank: DEPUTY SHERIFF I

Bureau: IRC (sworn A-J)

Division: IRC/TRANSPORTATION DIVISION

Hire Date: 3/20/2013

Approved Date: 10/18/2014 6:56:38 Print Detail Print

LAST	COMM	COMP	TC	WC	IA	RMB	UOF

Cat	Date	RefNo	Description
STC	Total: 15		
TTC	Total: 4		
AOT	Total: 6		
WC	Total: 1		

Perishables/Mandatory	Status
PSP Firearms	Custody / Waived
PSP ACT	Custody / Waived
PSP Tact comm	Custody / Waived
PSP Driving	Custody / Waived
CPR	Expires by 2/23/2019

Disputed History | Thresholds

Disp. Da	Date	Type

Report Missing Items

OCSD Professional Standards Division

Case Report by Principal - KENNETH G. TRAUTMAN

Print Date: 1/11/2018

Case Number	Incident Date	Issue Date	Complete Date	Complaint Description	Disposition
[redacted]					
18-024 A	12/16/2017	01/10/2018		Deputies allegedly had several inconsistencies in there use of force reports on an inmate.	Pending
[redacted]					

Total Cases per Principal: 6



TRAUTMAN, KENNETH (4819)

Rank: DEPUTY SHERIFF II

Bureau: IRC (sworn K-Z)

Division: IRC/TRANSPORTATION DIVISION

Hire Date: 8/1/1997

Approved Date: 7/4/2010 8:19:21 PM

Print Detail | Print

LAST | COMM | COMP | TC | WC | IA | RMB | UOF

Cat	Date	RefNo	Description
STC	Total: 86		
TTC	Total: 13		
AOT	Total: 28		
IA	Total: 3		

Perishables/Mandatory	Status
PSP Firearms	Custody / Waived
PSP ACT	Custody / Waived
PSP Tact comm	Custody / Waived
PSP Driving	Custody / Waived
CPR	Expires by 3/15/2019

Disputed History | Thresholds

Disp. Da	Date	Type

Report Missing Items

Howell, Cheri L

From: Microsoft Outlook
To: Trautman, Kenneth G
Sent: Monday, February 04, 2019 10:58 AM
Subject: Delivered: PI# 18-024

Your message has been delivered to the following recipients:

Trautman, Kenneth G (KTrautman@ocsd.org)

Subject: PI# 18-024

Internal Investigation
Administrative Worksheet
PI# 18-024

Principal(s): Deputy Kenneth Trautman

Complainant(s): Administration

Facility/Location: Intake Release Center

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 300.3.3- Control Holds/ Pain Compliance techniques*

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

5. *OCSD Policy Section 300.8- Immediate Notification to Supervisor and response required*

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

6. *C.C.O.M. Policy Section 1800.1- Use of Force*

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

Discipline: ☐ Administrative Leave ☐ Written Reprimand

☐ Suspension (# of hours_____) ☐ Demotion (to rank of _____) ☐ Dismissal

Comments / Other: _____

Administrative Disposition by: Capt M Ramos **Date:** 4/13-18

Administrative Appeal Hearing

Date: _____ *Time:* _____

In Attendance: _____

Comments: _____

Disposition: _____

Disposition by: _____ *Date:* _____

ORANGE COUNTY SHERIFF'S DEPARTMENT

PROFESSIONAL STANDARDS DIVISION
NOTICE OF SUSPENSION

CONFIDENTIAL

To: Assistant Sheriff Jon Briggs
Assistant Sheriff Bill Baker

From: Sergeant AJ Patella

Date: January 29, 2019

P.I. File #: 18-024

Please be advised, Deputy Sheriff I Alexander Santo (Employee ID #0084572) will be suspended from duty without pay for a total of twenty three (23) working hours for disciplinary reasons. The suspension is scheduled to be served as follows:

Tuesday, February 5, 2019	0930-1930	10 hours
Wednesday, February 6, 2019	0600-1900	13 hours
	TOTAL	**23 hours**

cc: Commander Jason Park
Commander Joe Balicki
Captain John Coppock
Captain Martin Ramirez
Lieutenant Garrett DeGiorgio
Lieutenant James Peak
HR Manager II – Richard Sanchez
Position Control – Juana Fierro
Recruiting Manager – Vicki Pirooz
HR Records Supervisor – Josie McMurray
Sheriff's Payroll – Doris De La Cruz

ORANGE COUNTY SHERIFF'S DEPARTMENT

PROFESSIONAL STANDARDS DIVISION
NOTICE OF SUSPENSION

CONFIDENTIAL

To: Assistant Sheriff Jon Briggs
Assistant Sheriff Bill Baker

From: Sergeant AJ Patella

Date: January 29, 2019

P.I. File #: 18-024

Please be advised, Sergeant Mark Castro (Employee ID #0056168) will be suspended from duty without pay for a total of eleven and one half (11.5) working hours for disciplinary reasons. The suspension is scheduled to be served as follows:

Friday, February 1, 2019	1730-0500	11.5 hours
	TOTAL	**11.5 hours**

cc: Commander Jason Park
Commander Joe Balicki
Captain John Coppock
Captain Martin Ramirez
Lieutenant Garrett DeGiorgio
Lieutenant James Peak
HR Manager II – Richard Sanchez
Position Control – Juana Fierro
Recruiting Manager – Vicki Pirooz
HR Records Supervisor – Josie McMurray
Sheriff's Payroll – Doris De La Cruz

ORANGE COUNTY SHERIFF'S DEPARTMENT

PROFESSIONAL STANDARDS DIVISION
NOTICE OF SUSPENSION

CONFIDENTIAL

To: Assistant Sheriff Jon Briggs
Assistant Sheriff Bill Baker

From: Sergeant AJ Patella

Date: January 29, 2019

P.I. File #: 18-024

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cc: Commander Jason Park
Commander Joe Balicki
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Position Control – Juana Fierro
Recruiting Manager – Vicki Pirooz
HR Records Supervisor – Josie McMurray
Sheriff's Payroll – Doris De La Cruz

ORANGE COUNTY SHERIFF'S DEPARTMENT

PROFESSIONAL STANDARDS DIVISION
NOTICE OF SUSPENSION

CONFIDENTIAL

To: Assistant Sheriff Jon Briggs
Assistant Sheriff Bill Baker

From: Sergeant AJ Patella

Date: January 29, 2019

P.I. File #: 18-024

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Friday, February 1, 2019	1730-0500	11.5 hours
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cc: Commander Jason Park
Commander Joe Balicki
Captain John Coppock
Captain Martin Ramirez
Lieutenant Garrett DeGiorgio
Lieutenant James Peak
HR Manager II – Richard Sanchez
Position Control – Juana Fierro
Recruiting Manager – Vicki Pirooz
HR Records Supervisor – Josie McMurray
Sheriff's Payroll – Doris De La Cruz

NOTICE OF SUSPENSION

PI# 18-024

SERGEANT MARK CASTRO
INTAKE RELEASE CENTER
CUSTODY OPERATIONS

You are hereby notified that the Orange County Sheriff-Coroner Department ("OCSD") intends to suspend you without pay from your position of Sergeant, for a period of eleven and a half (11.5) working hours. 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 1018.33 - 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.

2. **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.

3. **OCSD POLICY SECTION 300.8 - IMMEDIATE NOTIFICATION TO SUPERVISORS AND SUPERVISORY RESPONSE REQUIRED**
   Supervisory notification shall be made as soon as reasonably possible following a use of force. The supervisor shall respond and conduct an investigation of the incident.

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 had with Commander Baker. Commander Baker upheld the suspension and will be served as follows:

- Friday, February 1, 2019 (1730-0500)

Total: 11.5 hours

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.

JAN 2 5 2019

Martin Ramirez, Captain — Date

JAN 2 5 2019

Mark Castro, Sergeant — Date

NOTICE OF SUSPENSION

PI# 18-024

DEPUTY ALEXANDER SANTO
INTAKE RELEASE CENTER
CUSTODY OPERATIONS

You are hereby notified that the Orange County Sheriff-Coroner Department ("OCSD") intends to suspend you without pay from your position of Deputy Sheriff I, for a period of twenty-three (23) working hours. 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 as 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 SECTION 300.8 - IMMEDIATE NOTIFICATION TO SUPERVISORS AND SUPERVISORY RESPONSE REQUIRED**
   Supervisory notification shall be made as soon as reasonably possible following a use of force.

5. **CCOM POLICY SECTION 1800.1- USE OF FORCE**
   Staff will notify a sergeant(s) whenever an interaction with an inmate/detainee is likely to result in the use of force. When possible, a sergeant will be present during any such interaction. However, there will be unavoidable instances when the use of force is spontaneous and a sergeant cannot be notified until afterwards. When this occurs, staff will notify a sergeant as soon as reasonably possible.
   1. Voluntary compliance is the preferred means of achieving resolution to potential use of force encounters. When practicable, staff should ask for and allow reasonable time for compliance.

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 had with Commander Sawyer who upheld the suspension. Commander Sawyer did not sustain the allegations of untruthfulness. Your suspension will be served as follows:

- Tuesday, February 5, 2019 (~~1100-2030~~ 0930-2030 LT. Peals)
- Wednesday, February 6, 2019 (0600-1930)

Total: 23 hours

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.

Martin Ramirez, Captain — JAN 2 3 2019 — Date

Alexander Santo, Deputy Sheriff — JAN 2 3 2019 — Date

ORANGE COUNTY
SHERIFF'S DEPARTMENT

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

SHERIFF-CORONER
SANDRA HUTCHENS

NOTICE OF PENDING SUSPENSION
PI# 18-024

Deputy Alexander Santo
Intake Release Center
Custody Division

You are hereby notified that the Orange County Sheriff-Coroner Department ("OCSD") intends to suspend you without pay from your position as Deputy Sheriff, for a period of twenty-three (23) 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**
   (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 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 SECTION 300.8 - IMMEDIATE NOTIFICATION TO SUPERVISORS AND SUPERVISORY RESPONSE REQUIRED**
   Supervisory notification shall be made as soon as reasonably possible following a use of force.

5. **CCOM POLICY SECTION 1800.1- USE OF FORCE**
   Staff will notify a sergeant(s) whenever an interaction with an inmate/detainee is likely to result in the use of force. When possible, a sergeant will be present during any such

interaction. However, there will be unavoidable instances when the use of force is spontaneous and a sergeant cannot be notified until afterwards. When this occurs, staff will notify a sergeant as soon as reasonably possible.

1. Voluntary compliance is the preferred means of achieving resolution to potential use of force encounters. When practicable, staff should ask for and allow reasonable time for compliance.

6. OCSD POLICY SETCION 1018.27 – UNTRUTHFULNESS

No member shall knowingly make false statements or misrepresentations to other members or superiors.

On February 1, 2018, at the direction of Commander Briggs, Internal Affairs initiated a personnel investigation into your on-duty actions at the Intake Release Center. It is alleged on December 16, 2017, you used force on an inmate while trying to place handcuffs and a wristband on him. During this process the inmate's wrist was fractured.

During this incident, you and your partners, Deputies Rigby and Copeland went to a classification booth to place a blue wrist on inmate Eppie Herrera. Herrera was under the influence of narcotics and not responding to Deputy Rigby's directives. You stated the inmate was compliant and agreed to be removed to a nearby cell to have the wristband placed on him. In your internal affairs interview, you told Sergeant Anderson you had a conversation with Herrera and he agreed to be escorted to another cell to have the wristband placed on him. You stated Herrera had told you he was protective custody in the jail but on the streets he was very active. You then told Sergeant Anderson you told Herrera you would put the band on at a separate location and he responded that he was "totally cool with that". Both you and your partners wrote in their reports that inmate Herrera had a "kicking demeanor" and was not responsive to Deputy Rigby's directives. Based on his "kicking demeanor" and non–responsive answers, it is questionable on whether inmate Herrera actually made these statements to you. When Sergeant Anderson asked Deputy Rigby about these statements, Deputy Rigby told Sergeant Anderson he did not hear you and inmate Herrera have this conversation and believed that Herrera was "too incoherent" to have made these statements to you.

Shortly after, you and your partners went out on the floor and contacted inmate Herrera inside the classification booth. You told Sergeant Anderson your intentions were to escort Herrera out of the booth to a nearby cell and place a wristband on him, out of view of others. You told Sergeant Anderson that you commonly do this and do not notify a sergeant when escorting inmates to another cell to place a wristband on. You wrote in your report that Deputy Rigby was giving commands through the window and Herrera was compliant. Once you entered the classification booth, Herrera stiffened his arms and refused to comply. However, the video shows you, Deputy Copeland and Deputy Rigby rush into the cell, push Herrera up against the wall and place the wristband on him. These immediate actions showed that Herrera was non-compliant and entry into the booth should have been delayed. Once you and your partners entered the booth and the wrist band was placed on Herrera, you and your partners escorted him to a nearby cell where he was placed in a prone positon. Deputy Copeland told Sergeant Anderson that Herrera's leg had to be forced out from under him to get him to comply. At the conclusion of these actions, you told

Sergeant Anderson that you did not believe force was used, but made an attempt to locate a sergeant to let them know of your actions. You told Sergeant Anderson that you made every attempt to locate a sergeant and/or lieutenant and claimed you could not locate one anywhere so you and your partners went back to work.

Forty-five (45) minutes later, you were advised by Deputy Trautman that inmate Herrera was complaining of pain to his wrist. You and your partners responded and provided medical care. At this point you made a second attempt to locate a sergeant and notify him of the incident. You, Deputy Copeland and Deputy Rigby all responded to the briefing room where you informed Sergeant Castro of the events that took place. You told Sergeant Castro that inmate Herrera was initially cooperative and that you did not use force on Herrera when you entered the booth to place the wristband on him. You told Sergeant Castro that Herrera was claiming his wrist was now hurt but he had a previous wrist injury. You told Sergeant Anderson that you were clear in relaying this information to Sergeant Castro and offered to write a Use of Force report. Based on the information you provided Sergeant Castro, he directed you to write a Medical Aid report. You did not question this because you did not want to go against the sergeant and in your experience, not all sergeants believe a "complaint of pain" warrants a Use of Force report.

Lieutenant Larsen overheard the conversation you had with Sergeant Castro. Lieutenant Larsen believed you were not clear in telling Sergeant Castro exactly what happened and he believed you were "selling" it to appear as if you and your partners did not use force on the inmate and that the injury was pre-existing. Based on what you were telling Sergeant Castro, he believed that the inmate had an injury prior to entering the jail and that you had treated him for a pre-existing injury. This information lead Sergeant Castro to direct you to write a Medical Aid report versus a Use of Force report. It was not until after you and your partners went home that evening that Sergeant Castro checked on Herrera and Herrera told him you and your partners injured his wrist when you "jumped" him in the booth to put a wristband on him. Herrera had a visible wrist injury along with a cut under his eye, apparently from the forced used by you and your partners.

Sergeant Castro notified you later that evening, after he had recognized force was used, and directed you and your partners to write a Use of Force report when everyone returned to work. You and your partners later wrote a Use of Force report along with a crime report for CPC 148. In the report, you wrote that the inmate attempted to strike Deputy Copeland while you two were trying to control him. You also wrote in the report that you mirandized and interviewed Herrera and he admitted to attempting to strike Deputy Copeland because he did not want the blue band placed on him. This interview was not recorded to confirm this information to be true. Also, the attempted assault by Herrera was never relayed to Sergeant Castro on the day of the incident and he was not made aware of this attempted assault until he read your report. You told Sergeant Anderson you did not feel the attempted assault warranted a criminal charge against the inmate and believed it should have been "just" a Use of Force report; however, you told Sergeant Anderson that Sergeant Castro directed you to write a crime report of CPC 148. Sergeant Castro denied directing you to write a CPC 148 report and stated had he been told that the inmate attempted to strike Deputy Copeland on the day of the incident, he would have directed you to write a CPC 69 report, not a CPC 148 report. Both Deputies Copeland and Rigby told Sergeant Anderson that they were told by you to write the CPC 148 report and not Sergeant Castro. Sergeant

Castro did not correct the decision to write a crime report or make any changes to your CPC 148 report based on a directive he had received from both his lieutenant and captain.
As a member of the Orange County Sheriff's Department, you have an unyielding responsibility to continually conduct yourself professionally, perform your duties in a safe manner and not bring 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 Commander Joe Balicki 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 Chad Taylor 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.

Martin Ramirez, Captain — NOV 2 8 2018 — Date

Alexander Santo, Deputy Sheriff — NOV 2 8 2018 — Date

ORANGE COUNTY
SHERIFF'S DEPARTMENT

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

SHERIFF-CORONER
SANDRA HUTCHENS

LETTER OF REPRIMAND
Personnel Investigation# 18-024

ADAM COPELAND
CUSTODY OPERATIONS
INTAKE RELEASE CENTER

Pursuant to Article X, Section 1 of the County of Orange Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriffs for the Peace Officer and Supervising Peace Officer Unit and in accordance with Orange County Sheriff-Coroner Department Policy Manual Section 340.2(a) 1, you are hereby reprimanded for violating the following section(s) of the Orange County Sheriff-Coroner Department Policy Manual:

1. **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.

2. **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.

3. **OCSD POLICY SECTION 300.8 - IMMEDIATE NOTIFICATION TO SUPERVISORS AND SUPERVISORY RESPONSE REQUIRED**
   Supervisory notification shall be made as soon as reasonably possible following a use of force.

On February 1, 2018, at the direction of Commander Briggs, Internal Affairs initiated a personnel investigation into your on-duty actions at the Intake Release Center. It is alleged on December 16, 2017, you used force on an inmate while trying to place handcuffs and a wristband on him. During this process the inmate's wrist was fractured.

On December 16, 2017, you and your partners, Deputies Santo and Rigby went to the classification booth to place a blue wristband on inmate Eppie Herrera who was under the influence of narcotics

and not responding to Deputy Rigby's directives. Deputy Rigby requested your assistance in placing a wristband on Herrera. In your interview, you told Sgt. Anderson as a Classification Deputy, when this happens, you and your partners will walk out to the booth, escort the inmate to another cell and place a wristband on him, out of the view of other inmates. In your experience, inmates normally comply when you and your partners walk out to the booth and agree to put the band on if they are escorted to another location. You told Sgt. Anderson Deputy Rigby gave Herrera verbal commands through the booth window and he did not comply. At this point, you told Sgt. Anderson the inmate was not cooperating and you and you partners should have notified a sergeant. Instead, you and your partners entered the booth, pushed the inmate up against the glass, placed him in handcuffs and put a wristband on him, injuring his wrist. You told Sgt. Anderson you did not believe force was used inside the booth. You told Sgt. Anderson you and your partners then escorted Herrera to a cell nearby and he refused to get in a prone position. Deputy Rigby had to force Herrera's legs out from under him. You told Sgt. Anderson you felt at this point forced was used on Herrera.

After learning the inmate had an injured wrist, you and your partners notified Sgt. Castro and advised him of what happened. You and your partners told Sgt. Castro that you used control holds to place a wristband on Herrera and that at no time did you use force. You failed to recognize that the level of force used when applying these control holds caused Herrera's wrist to fracture and should have been immediately documented on a Use of Force report. In addition to this, you failed to inform Sgt. Castro that you felt forced was used inside the cell when proning Herrera out.

In documenting this incident, you and your partners wrote a crime report for CPC 148. You told Sgt. Anderson you believed you were charging the inmate with CPC 148 for trying to strike you. You again failed to relay this information to the sergeant and he was not aware of this attempted assault on you until he read your report.

After consideration of all available information, the department believes you violated the above listed OCSD Policy sections. 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.

A copy of this reprimand will be placed in your personnel investigation file. You are entitled to appeal this matter in accordance with Article X, Section 1B and Article XI, Section 7 of the Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriffs for the Peace Officer and Supervising Peace Officer Unit.

Martin Ramirez, Captain — DEC 0 3 2018 — Date

Adam Copeland, Deputy Sheriff I — DEC 0 3 2018 — Date

ORANGE COUNTY
SHERIFF'S DEPARTMENT

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

SHERIFF-CORONER
SANDRA HUTCHENS

LETTER OF REPRIMAND
Personnel Investigation# 18-024

MICHAEL RIGBY
CUSTODY OPERATIONS
INTAKE RELEASE CENTER

Pursuant to Article X, Section 1 of the County of Orange Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriffs for the Peace Officer and Supervising Peace Officer Unit and in accordance with Orange County Sheriff-Coroner Department Policy Manual Section 340.2(a) 1, you are hereby reprimanded for violating the following section(s) of the Orange County Sheriff-Coroner Department Policy Manual:

1. **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.

2. **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.

3. **OCSD POLICY SECTION 300.8 - IMMEDIATE NOTIFICATION TO SUPERVISORS AND SUPERVISORY RESPONSE REQUIRED**
   Supervisory notification shall be made as soon as reasonably possible following a use of force.

On February 1, 2018, at the direction of Commander Briggs, Internal Affairs initiated a personnel investigation into your on-duty actions at the Intake Release Center. It is alleged on December 16, 2017, you used force on an inmate while trying to place handcuffs and a wristband on him. During this process the inmate's wrist was fractured.

On December 16, 2017, you and your partners, Deputies Santo and Copeland went to the classification booth to place a blue wristband on inmate Eppie Herrera who was under the influence of narcotics and not responding to your directives. You stated Herrera was not responsive to your directives and mumbling and incoherent as he appeared to be coming down from narcotics. In your interview, you told Sgt. Anderson in your experience as a Classification Deputy, when this happens, you walk out to the booth, escort the inmate to another cell and place the wristband on the inmate out of view of other inmates. This was your intention when you walked out to the classification booth to contact Herrera. In your experience, inmates normally comply when you and your partners walk out to the booth and agree to put the band on if they are escorted to another location. You told Sgt. Anderson you gave inmate Herrera verbal commands through the booth window and he was not complying with your commands. At this point, the inmate was not cooperating and you should have notified a sergeant. Instead, you and your partners entered the booth, pushed the inmate up against the glass, placed him in handcuffs and put a wristband on him, injuring his wrist. You told Sgt. Anderson that you did not believe you and your partners used force and simply used control holds.

After learning the inmate had an injured wrist, you and your partners notified Sgt. Castro and advised him of what happened. You and your partners told Sgt. Castro that you used control holds to place a wristband on Herrera and that at no time did you use force. You failed to recognize that the level of force used when applying these control holds caused Herrera's wrist to fracture and should have been immediately documented on a Use of Force report.

After consideration of all available information, the department believes you violated the above listed OCSD Policy sections. 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.

A copy of this reprimand will be placed in your personnel investigation file. You are entitled to appeal this matter in accordance with Article X, Section 1B and Article XI, Section 7 of the Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriffs for the Peace Officer and Supervising Peace Officer Unit.

Martin Ramirez, Captain — NOV 2 8 2018 — Date

Michael Rigby, Deputy Sheriff I — NOV 2 8 2018 — Date

ORANGE COUNTY
SHERIFF'S DEPARTMENT

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

SHERIFF-CORONER
SANDRA HUTCHENS

NOTICE OF PENDING SUSPENSION
PI# 18-024

Sergeant Mark Castro
Intake Release Center
Custody Division

You are hereby notified that the Orange County Sheriff-Coroner Department ("OCSD") intends to suspend you without pay from your position as a Sergeant, for a period of eleven and a half (11.5) 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 1018.33 - 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.

2. **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.

3. **OCSD POLICY SECTION 300.8/9 - IMMEDIATE NOTIFICATION TO SUPERVISORS AND SUPERVISORY RESPONSE REQUIRED**
   Supervisory notification shall be made as soon as reasonably possible following a use of force. The supervisor shall respond and conduct an investigation of the incident.

On February 1, 2018, at the direction of Commander Briggs, Internal Affairs initiated a personnel investigation into your on duty actions at the Intake Release Center. It is alleged on December 16, 2017, you were the supervisor on duty when forced was used by the Classification Deputies while placing a wristband on an inmate. During this process, the inmate's wrist was fractured.

On December 16, 2017, Deputy Santo contacted you via telephone and advised you he and his partners had used control holds on inmate Eppie Herrera after he refused to have a blue band placed on him, identifying him as a protective custody inmate. Deputy Santo told you Herrera was complaining of pain to his left wrist after they placed the band on him. You told Deputy Santo that you needed to go to briefing and told Deputy Santo to check on the inmate, provide medical treatment and to keep you informed.

Deputies Santo, Rigby and Copeland met you in the briefing room and told you that inmate Herrera's arm was injured. In your Internal Affairs interview, you told Sergeant Anderson the deputies had told you they did not use force when placing a wristband on Herrera and that they only used control holds. You stated Deputy Santo told you they placed the inmate in handcuffs, placed the wristband on, escorted him to another cell and removed the handcuffs without incident. Deputy Santo told you Herrera was now complaining of pain to his left wrist but they did not injure him. You told Sergeant Anderson that Deputy Santo was talking fast and lead you to believe that Herrera's wrist was broken prior to coming into custody and you believed the injury was not a result of the deputies' actions. With this information, you directed the deputies to write a Medical Aid report.

You told Sergeant Anderson you wanted to look at the video prior to sending the deputies home in order to make a clear decision on whether a use of force occurred. You reviewed the video with the deputies and based on the angle of the camera and the fact that the incident occurred inside a class booth, you could not properly determine if a use of force occurred. You said you felt rushed because it was the end of the deputies' shift and didn't want to hold them over due to overtime restrictions in the jail. You told the deputies to write a Medical Aid report when they returned back to work and then sent them home. At no time during this investigation did you take the time to check on the inmate to determine his welfare and determine if the injury was pre-existing. Had you checked on him prior, you would have been able to make a clear decision that a use of force had occurred.

You wrote in your report that at 2000 hours that evening, you were doing your floor check when you were contacted by Herrera who informed you of his injured wrist. You asked Herrera what happened and he told you he did not want to put the blue wristband on so the deputies rushed him inside the booth, pushed him to the ground and twisted his wrists in order to place the wristband on him. You were also able to identify that Herrera had a cut under his eye in which he also told you was a result of the deputies' actions. You immediately notified Lieutenant Larson of your findings and he directed you to have the deputies write a Use of Force report.

You told Sergeant Anderson you recognized that you put too much trust in the deputies and admitted that you should have slowed down and gathered all the facts before making a decision. You failed to recognize the urgency of the incident and failed to do a proper investigation in a timely manner.

As a member of the Orange County Sheriff's Department, you have an unyielding responsibility to continually conduct yourself professionally, perform your duties in a safe manner and not bring 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 Commander Joe Balicki 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 Chad Taylor 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.

Martin Ramirez, Captain — NOV 28 2018 — Date

Mark Castro, Sergeant — NOV 28 2018 — Date

Internal Investigation
Administrative Worksheet
PI# 18-024

Principal(s): Deputy Michael Rigby

Complainant(s): Administration

Facility/Location: Intake Release Center

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 300.3.3- Control Holds/ Pain Compliance techniques*

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

5. *OCSD Policy Section 300.8- Immediate Notification to Supervisor and response required*

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

6. *C.C.O.M. Policy Section 1800.1- Use of Force*

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

Discipline: ☐ Administrative Leave ☒ Written Reprimand

☐ Suspension (# of hours_____) ☐ Demotion (to rank of _____) ☐ Dismissal

Comments / Other: _____

Administrative Disposition by: Capt [illegible] **Date:** 11-13-18

Administrative Appeal Hearing

Date: _____ *Time:* _____

In Attendance: _____

Comments: _____

Disposition: _____

Disposition by: _____ Date: _____

Internal Investigation
Administrative Worksheet
PI# 18-024

Principal(s): Sergeant Mark Castro

Complainant(s): Administration

Facility/Location: Intake Release Center

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

5. *OCSD Policy Section 300.8- Immediate Notification to Supervisor and response required*

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

7. *OCSD Policy Manual Section 1018.7- Untruthfulness*

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

Discipline: ☐ Administrative Leave ☐ Written Reprimand

☐ Suspension (# of hours 11.5) ☐ Demotion (to rank of _____) ☐ Dismissal

Comments / Other: _____

Administrative Disposition by: Capt Ly/Ramirez **Date:** 1-3-18

Date: Jan 2, 2019 ***Administrative Appeal Hearing*** *Time:* 1 PM

In Attendance: CASTRO, KRISTOFFERSON, ANDERSON, DEGIORGIO

Comments: _____

Disposition: SUSPENSION UPHELD - 11.5 HOURS

Disposition by: WILLIAM BAKER /// Date: 1-10-19

Internal Investigation
Administrative Worksheet
PI# 18-024

Principal(s): Deputy Alex Santo

Complainant(s): Administration

Facility/Location: Intake Release Center

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 300.3.3- Control Holds/ Pain Compliance techniques*

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

5. *OCSD Policy Section 300.8- Immediate Notification to Supervisor and response required*

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

6. *C.C.O.M. Policy Section 1800.1- Use of Force*

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

7. *OCSD Policy Manual Section 1018.7- Untruthfulness*

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

Discipline: ☐ Administrative Leave ☐ Written Reprimand

☒ Suspension (# of hours 23) ☐ Demotion (to rank of _____) ☐ Dismissal

Comments / Other: _____

Administrative Disposition by: Capt M/ Kamwis **Date:** 11-13-18

Administrative Appeal Hearing

Date: 1-3-19 *Time:* 1055

In Attendance: DiGiorgio, Anderson, Santo, Brittany

Comments: Reasonable grounds to proceed w/ 23 hour suspension

Disposition: See #7 = Not Sustained

Disposition by: D. Lawson **Date:** 1-8-19

ADAMS & FERRONE & FERRONE
A Professional Law Corporation

4333 Park Terrace Dr., Ste. 200,
Westlake Village, CA 91361
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Stuart D. Adams
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Robert L. Baumann
Andrew B. Scott
Samantha M. Swanson

John R. Kristofferson
Ryan T. Trotta
Mark J. Peacock*
Of Counsel

December 3, 2018

Sent Via U.S. Mail

Sergeant Chad Taylor
Internal Affairs
Orange County Sheriff's Department
550 N. Flower Street,
Santa Ana, CA 92703
Sent via Email & First Class Mail: ctaylor@ocsd.org

RE: Appeal of Notice of Pending Suspension PI# 18-024

Dear Sergeant Taylor,

Pursuant to Skelly v. State Personnel Board (1975) 15 Cal.3d 194, Sergeant Mark Castro hereby appeals the above-referenced document received November 28, 2018. Please let this correspondence represent Sergeant Castro's formal request for a Due Process Review (Skelly Meeting) with Commander Joe Balicki.

Please also let this correspondence represent Sergeant Castro's formal request for copies of the complete investigation and all documents pertaining to the investigation. Further Sergeant Castro requests copies of all documents upon which the department has relied upon to support the intended disciplinary action. Included in this request include, but are not limited to, all the audio recordings of those persons interviewed for the purpose of this investigation, all transcripts of those interviews, any complaint forms or citizen complaints, all notes and memorandums drafted or taken for the purpose of the investigation and any other documents or materials which are part of the investigation or were used to determine the recommended discipline.

Please contact our office at least two (2) days in advance to discuss meeting time prior to your hearing. Should you have any questions or concerns, please do not hesitate to contact me directly.

Sincerely,

//s//

John R. Kristofferson, Esq.
Adams, Ferrone and Ferrone

ADAMS & FERRONE & FERRONE
A Professional Law Corporation

4333 Park Terrace Dr., Ste. 200,
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Andrew B. Scott
Samantha M. Swanson
John R. Kristofferson
Ryan T. Trotta
Mark J. Peacock*
Of Counsel

December 3, 2018

Sent Via U.S. Mail

WED | 2:19/1400

Sergeant Chad Taylor
Internal Affairs
Orange County Sheriff's Department
550 N. Flower Street,
Santa Ana, CA 92703
Sent via Email & First Class Mail: ctaylor@ocsd.org

RE: Appeal of Notice of Pending Suspension PI# 18-024

Dear Sergeant Taylor,

Pursuant to Skelly v. State Personnel Board (1975) 15 Cal.3d 194, Sergeant Mark Castro hereby appeals the above-referenced document received November 28, 2018. Please let this correspondence represent Sergeant Castro's formal request for a Due Process Review (Skelly Meeting) with Commander Joe Balicki.

Please also let this correspondence represent Sergeant Castro's formal request for copies of the complete investigation and all documents pertaining to the investigation. Further Sergeant Castro requests copies of all documents upon which the department has relied upon to support the intended disciplinary action. Included in this request include, but are not limited to, all the audio recordings of those persons interviewed for the purpose of this investigation, all transcripts of those interviews, any complaint forms or citizen complaints, all notes and memorandums drafted or taken for the purpose of the investigation and any other documents or materials which are part of the investigation or were used to determine the recommended discipline.

Please contact our office at least two (2) days in advance to discuss meeting time prior to your hearing. Should you have any questions or concerns, please do not hesitate to contact me directly.

Sincerely,

//s//

John R. Kristofferson, Esq.
Adams, Ferrone and Ferrone

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A Professional Law Corporation

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Andrew B. Scott
Samantha M. Swanson

John R. Kristofferson
Ryan T. Trotta
Mark J. Peacock*
Of Counsel

November 29, 2018

1-3-19 @ 1100

Sergeant Chad Taylor
Internal Affairs
Orange County Sheriff's Department
550 N. Flower Street,
Santa Ana, CA 92703
Sent via Email & First Class Mail: ctaylor@ocsd.org

RE: Appeal of Notice of Pending Suspension
PI# 18-024

Dear Sgt. Taylor,

Pursuant to Skelly v. State Personnel Board (1975) 15 Cal.3d 194, Deputy Alexander Santo hereby appeals the above-referenced document received on November 28. 2018. Please let this correspondence represent Deputy Santo's formal request for a Due Process Review (Skelly Meeting).

Please also let this correspondence represent Deputy Santo's formal request for copies of the complete investigation and all documents pertaining to the investigation. Further, Deputy Santo requests copies of all documents upon which the department has relied upon to support the intended disciplinary action. Included in this request is a separate for all the audio recordings of those persons interviewed for the purpose of this investigation, all transcripts of those interviews, any complaint forms or citizen complaints, all notes and memorandums drafted or taken for the purpose of the investigation and any other documents or materials which are part of the investigation or were used to determine the recommended discipline.

Please contact my office in order to schedule a mutually agreeable date and time to conduct the hearing. If this notice is insufficient in any way, immediately notify me as to the reason.

Sincerely,

//s//

Brittany Collet, Esq.
Adams, Ferrone and Ferrone

CC: Frank Flavin, AOCDS Legal representative (Via Email Only: frank@aocds.org)
Julie Cramer, AOCDS Legal representative (Via Email Only: julie@aocds.org)
Jan Christie, AOCDS Legal representative (Via Email Only: jan@aocds.org)

Internal Investigation
Administrative Worksheet
PI# 18-024

Principal(s): Deputy Alex Santo

Complainant(s): Administration

Facility/Location: Intake Release Center

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 300.3.3- Control Holds/ Pain Compliance techniques*

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

5. *OCSD Policy Section 300.8- Immediate Notification to Supervisor and response required*

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

6. *C.C.O.M. Policy Section 1800.1- Use of Force*

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

7. *OCSD Policy Manual Section 1018.7- Untruthfulness*

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

Discipline: ☐ Administrative Leave ☐ Written Reprimand

☒ Suspension (# of hours 23) ☐ Demotion (to rank of _____) ☐ Dismissal

Comments / Other: _____

Administrative Disposition by: Capt M/ Romero **Date:** 11-13-18

Administrative Appeal Hearing

Date: _____ *Time:* _____

In Attendance: _____

Comments: _____

Disposition: _____

Disposition by: _____ Date: _____

Internal Investigation
Administrative Worksheet
PI# 18-024

Principal(s): Deputy Adam Copeland

Complainant(s): Administration

Facility/Location: Intake Release Center

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 300.3.3- Control Holds/ Pain Compliance techniques*

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

5. *OCSD Policy Section 300.8- Immediate Notification to Supervisor and response required*

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

6. *C.C.O.M. Policy Section 1800.1- Use of Force*

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

Discipline: ☐ Administrative Leave ☒ Written Reprimand

☐ Suspension (# of hours_____) ☐ Demotion (to rank of_____) ☐ Dismissal

Comments / Other:

Administrative Disposition by: Capt M/ Ramos **Date:** 11-13-18

Administrative Appeal Hearing

Date: _____ *Time:* _____

In Attendance:

Comments:

Disposition:

Disposition by: _____ Date: _____

Internal Investigation
Administrative Worksheet
PI# 18-024

Principal(s): Sergeant Mark Castro

Complainant(s): Administration

Facility/Location: Intake Release Center

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

5. *OCSD Policy Section 300.8- Immediate Notification to Supervisor and response required*

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

7. *OCSD Policy Manual Section 1018.7- Untruthfulness*

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

Discipline: ☐ Administrative Leave ☐ Written Reprimand

☐ Suspension (# of hours 11.5) ☐ Demotion (to rank of _____) ☐ Dismissal

Comments / Other: _____

Administrative Disposition by: Capt Cuprisamus **Date:** 1-13-18

Administrative Appeal Hearing

Date: _____ *Time:* _____

In Attendance: _____
Comments: _____
Disposition: _____

Disposition by: _____ **Date:** _____

INITIAL ACTION

Case #18-024	ORANGE COUNTY SHERIFF'S DEPARTMENT	12/16/2018

COMPLAINANT: Sheriff's Administration

COMPLAINANT DATE: 12/16/2018

DIVISION: Intake Release Center

DIVISION COMMANDER: Captain Lane Lagaret

INITIAL ACTION

- [ ] No Further Action
- [ ] Division Review
- [ ] Human Resources Investigation
- [ ] Division Personnel Investigation
- [x] 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
- [x] NO ADMINISTRATIVE LEAVE

Executive Command	(Employee's Command)	Date
Jon J Bishop	CUSTODY OPERATIONS	2-1-18

ADMINISTRATIVE LEAVE REVIEW

Executive Command	(Field Ops/Investigative Command)	Date

Executive Command	(Professional Services Command)	Date

INITIATING OCSD MEMOS

ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO

TO: Captain L. Lagaret
FROM: Lieutenant E. Larsen
DATE: 01-03-18
RE: Use of Force 17-049808

On 12-16-17 at approximately 1630 hours, an incident occurred involving inmate Herrera, Eppie (BKG#3030410). The Deputies involved were A. Santo #9817, A. Copeland #9320, M. Rigby #9605, K. Trautman #4819, and J. Jeong #10483. Deputy D. Rudasill #8640 was present during the incident but video confirms he did not have any physical contact with Herrera.

I reviewed all available reports, video footage, Supervisor's analysis, and the Internal Memorandum written by Sgt. M. Castro. It is my recommendation this incident be referred to Command Staff for further investigation for the following reasons:

1. The incident takes place in areas that are out of camera view (Classification booth #1 and Cell PM-17).
2. There was no Sergeant present/notified or use of a handheld camera during an incident that could likely result in a use of force (inmate refusing to wear a wristband).
3. There was a significant delay (75 minutes) in notifying a Sergeant that any type of incident occurred.
4. There is possibly inaccurate reporting of the incident. Initially there was no report. Deputy Santo later drew a JI# for a medical aid. Sgt. M. Castro and I determined a Use of Force report was required and instructed the involved Deputies to document their actions during the incident. While working overtime on the following day, Deputy A. Santo titled the DR# CPC 148(a)(1) – Resisting Arrest. Dep. A. Santo mirandized Herrera and provided a summary of his statement in his report (See statement).
5. There are several inconsistencies within the Deputies' reports (Herrera's level of resistance and assault on Deputies).
6. Herrera sustained a fractured left wrist. Sgt. Castro and I visually examined Herrera's wrist. An injury was obvious (reporting requirement).

COMMANDER,
I CONCUR WITH THE RECOMMENDATION OF REFERRING THIS INCIDENT TO INTERNAL AFFAIRS FOR POLICY VIOLATIONS.

ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO

TO: Captain L. Lagaret
FROM: Sergeant M. Castro
DATE: 12-29-17
RE: Use of Force report #17-049808

On Saturday, December 16, 2017 at approximately 1745 hours, Deputy Santo, Shift 1 Classification Deputy, called me, Shift 2 Operations Sergeant, regarding an incident with Inmate Herrera, Eppie (#3030410).

The following is a summary of what Deputy Santo told me. Deputy Santo briefed me on an incident which occurred at 1630 hours. He told me Inmate Herrera was being interviewed inside Classification booth #1 and became verbally uncooperative once he was told he was going to be classified as a Protective Custody inmate. Inmate Herrera told the Classification Deputy he was not going to allow them to put the "Blue" wristband on him and refused to put his wrist through the small opening in the booth. Classification Deputies Santo, Copeland and Rigby left their work stations and went out to the inmate side of the Classification booth to make contact with Herrera. Deputy Santo said the three of them entered the booth and used control holds which enabled them to put the wrist band on Herrera. After this was accomplished, they escorted Inmate Herrera using rear wrist locks to the nearest cell, PM 17, and placed him into the cell. I asked Santo if any use of force occurred during the incident. Santo said they escorted Herrera using control holds but stated it was not a use of force incident. Deputy Santo made no mention of Inmate Herrera assaulting or attempting to assault any deputy. I asked Santo if Inmate Herrera was injured and seen by medical. Santo told me Inmate Herrera had broken his wrist seven years ago but no injuries occurred during this incident. I told Deputy Santo Inmate Herrera needed to be seen by medical and asked him to report the results as soon as possible. I asked Deputy Santo why I was not notified sooner regarding this incident. Deputy Santo told me he did not believe Inmate Herrera was going to be physically uncooperative and that he makes contact with inmates inside the Classification booths all the time and nothing ever happens. I informed Deputy Santo to remain on duty until I reviewed all available video footage from the overhead cameras on Booking Loop floor and received Inmate Herrera's medical status.

Once I finished conducting briefing, Deputies Santo, Copeland and Rigby walked into briefing and spoke to me. Deputy Santo told me Inmate Herrera had been seen by medical and was given an ice pack for a sore wrist. Deputy Santo told me Inmate Herrera had injured his wrist years ago and not during the incident today.

I reviewed the footage from the overhead cameras on the 1st floor with Deputy Santo. The footage did not reveal any additional information as to what occurred inside the Classification booth or inside cell PM-17. It clearly showed Inmate

P.I. HANDLED BY IA, PLEASE
Jan & Briggs 1-10-18

Herrera being escorted from the Classification booth to cell PM-17. Based on the video footage of the incident, which did not disclose more than I was already told, and the totality of the information given to me by Deputy Santo, I told Deputy Santo to write a Medical Aid report to document the medical care given to Inmate Herrera. Deputy Santo requested a JI# and left for his weekend.

At approximately 2000 hours, I was conducting my compliance check on the First floor. As I walked by Cell PM 17, I was flagged down by Inmate Herrera. Herrera was holding his left wrist which had an icepack over it. I had Deputy J. Hernandez open the cell door for me so I could talk to Inmate Herrera. Once the door was open, Inmate Herrera told me he thought his wrist was broken and the deputies had done it. Inmate Herrera said he did not want to be classified as a Protective Custody inmate and would not allow them to put a Blue wristband on him. He said the deputies opened the booth door and "Rushed" him. He stated the deputies threw him on the ground and twisted his wrists until they put the wristband and handcuffs on him. I asked Herrera to show me his wrist. When I looked at his left wrist, it appeared to be injured. I also noticed a minor abrasion under his right eye. I asked Inmate Herrera how he received the abrasion. He told me it occurred when the deputies had him on the floor of the cell.

I immediately had Deputy Hernandez take Inmate Herrera to Triage to be re-evaluated. I spoke to medical who told me they already had made a request for Inmate Herrera to have an X-ray but it would not be done until Monday at the soonest. After being seen by medical a second time, they informed me Inmate Herrera needed to be sent out to the hospital by transportation tonight in order for his wrist to be X-rayed for a possible fracture.

I immediately informed Lt. E. Larsen I was going to enter the incident into the Use of Force database and instructed deputies involved to write reports regarding their involvement.

Within approximately 1 hour, Inmate Herrera was transported to O.C. Global Anaheim and it was determined his left wrist was fractured. He returned to the IRC around 0400 hours after being treated for the fracture.

On December 20, 2017, all of the deputies involved submitted their reports.

Based on my investigation of this incident and my inability to question the deputies (POBAR), I recommend this incident be referred to command staff for further investigation.

PERSONNEL INVESTIGATION SUMMARY

ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO

TO: Lieutenant G. DeGiorgio
FROM: Sergeant Vanessa Anderson
DATE: October 26, 2018
RE: PI #18-024

Complainant: Administration

Employee(s): Deputy Alexander Santo
Deputy Adam Copeland
Deputy Michael Rigby
Deputy Kenneth Trautman
Sergeant Mark Castro

Incident Location: Intake Release Center

Incident Date: December 16, 2017

Allegation(s):

1. OCSD POLICY SECTION 1018.1	**STANDARD OF CONDUCT**
2. OCSD POLICY SECTION 1018.33	**INCURRING LIABILITY**
3. OCSD POLICY SECTION 1018.5	**PERFORMANCE OF DUTY**
4. OCSD POLICY SECTION 300.3.3	**CONTROL HOLDS/PAIN COMPLIANCE TECHNIQUES**
5. OCSD POLICY SECTION 300.8	**IMMEDIATE NOTIFICATION TO SUPERVISORS AND SUPERVISORY RESPONSE REQUIRED**
6. CCOM POLICY SECTION 1800.1	**GENERAL RULES- USE OF FORCE**
7. OCSD POLICY SECTION 1018.27	**UNTRUTHFULNESS**

1. **OCSD POLICY SECTION 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 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 SECTION 300.3.3 – CONTROL HOLDS /PAIN COMPLIANCE TECHNIQUES**
   Pain compliance techniques may be very effective in controlling a passive or actively resisting individual. Deputies may only apply those techniques for which the deputy has received

departmentally approved training and only when the deputy reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose. Deputies utilizing any control technique should consider the totality of the circumstance including, but not limited to:

a) The potential for injury to the deputy(s) or others if the technique is not used.
b) The potential risk of serious injury to the individual being controlled.
c) The degree to which a pain compliance technique may be applied should be proportionate to the amount of resistance by the suspect.
d) The nature of the offense involved.
e) The level of resistance of the individual(s) involved.
f) The need for prompt resolution of the situation.
g) If time permits (e.g., passive demonstrators), other reasonable alternatives.

The application of any control technique shall be discontinued once the deputy determines that compliance has been achieved.

5. **OCSD POLICY SECTION 300.8 - IMMEDIATE NOTIFICATION TO SUPERVISORS AND SUPERVISORY RESPONSE REQUIRED**
   Supervisory notification shall be made as soon as reasonably possible following a use of force.

6. **CCOM POLICY SECTION 1800.1- GENERAL RULES- USE OF FORCE**
   7. Staff will notify a sergeant(s) whenever an interaction with an inmate/detainee is likely to result in the use of force. When possible, a sergeant will be present during any such interaction. However, there will be unavoidable instances when the use of force is spontaneous and a sergeant cannot be notified until afterwards. When this occurs, staff will notify a sergeant as soon as reasonably possible.
      1. Voluntary compliance is the preferred means of achieving resolution to potential use of force encounters. When practicable, staff should ask for and allow reasonable time for compliance.

7. **OCSD POLICY SETCION 1018.27 – UNTRUTHFULNESS**
   No member shall knowingly make false statements or misrepresentations to other members or superiors.

INITIAL ACTION

On February 1, 2018, at the direction of Commander Briggs, Internal Affairs initiated a personnel investigation into the actions of deputies Santo, Copeland, Rigby and Trautman. It is alleged on December 16, 2017 the deputies possibly used force on an inmate, causing his wrist to break and did not immediately report it to a supervisor.

MEMORANDUMS INITIATING THE INTERNAL AFFAIRS INVESTIGATION

COPY OF MEMO FROM LIEUTENANT E. LARSEN TO CAPTAIN L. LAGARET

ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO

TO: Captain L. Lagaret
FROM: Lieutenant E. Larsen
DATE: 01-03-18
RE: Use of Force 17-049808

On 12-16-17 at approximately 1630 hours, an incident occurred involving inmate Herrera, Eppie (BKG#3030410). The Deputies involved were A. Santo #9817, A. Copeland #9320, M. Rigby #9605, K. Trautman #4819, and J. Jeong #10483. Deputy D. Rudasill #8640 was present during the incident but video confirms he did not have any physical contact with Herrera.

I reviewed all available reports, video footage, Supervisor's analysis, and the Internal Memorandum written by Sgt. M. Castro. It is my recommendation this incident be referred to Command Staff for further investigation for the following reasons:

1. The incident takes place in areas that are out of camera view (Classification booth #1 and Cell PM-17).
2. There was no Sergeant present/notified or use of a handheld camera during an incident that could likely result in a use of force (Inmate refusing to wear a wristband).
3. There was a significant delay (75 minutes) in notifying a Sergeant that any type of incident occurred.
4. There is possibly inaccurate reporting of the incident. Initially there was no report. Deputy Santo later drew a JI# for a medical aid. Sgt. M. Castro and I determined a Use of Force report was required and instructed the involved Deputies to document their actions during the incident. While working overtime on the following day, Deputy A. Santo titled the DR# CPC 148(a)(1) – Resisting Arrest. Dep. A. Santo mirandized Herrera and provided a summary of his statement in his report (See statement).
5. There are several inconsistencies within the Deputies' reports (Herrera's level of resistance and assault on Deputies).
6. Herrera sustained a fractured left wrist. Sgt. Castro and I visually examined Herrera's wrist. An injury was obvious (reporting requirement).

Commander,
I Concur with the Recommendation of referring this incident to Internal Affairs for Policy Violations.

Page 1 of 1

COPY OF MEMO FROM SERGEANT M. CASTRO TO CAPTAIN L. LAGARET

ORANGE COUNTY SHERIFF'S DEPARTMENT
INTERNAL MEMO

TO: Captain L. Lagaret
FROM: Sergeant M. Castro
DATE: 12-29-17
RE: Use of Force report #17-049808

On Saturday, December 16, 2017 at approximately 1745 hours, Deputy Santo, Shift 1 Classification Deputy, called me, Shift 2 Operations Sergeant, regarding an incident with Inmate Herrera, Eppie (#3030410).

The following is a summary of what Deputy Santo told me. Deputy Santo briefed me on an incident which occurred at 1630 hours. He told me Inmate Herrera was being interviewed inside Classification booth #1 and became verbally uncooperative once he was told he was going to be classified as a Protective Custody inmate. Inmate Herrera told the Classification Deputy he was not going to allow them to put the "Blue" wristband on him and refused to put his wrist through the small opening in the booth. Classification Deputies Santo, Copeland and Rigby left their work stations and went out to the inmate side of the Classification booth to make contact with Herrera. Deputy Santo said the three of them entered the booth and used control holds which enabled them to put the wrist band on Herrera. After this was accomplished, they escorted Inmate Herrera using rear wrist locks to the nearest cell, PM 17, and placed him into the cell. I asked Santo if any use of force occurred during the incident. Santo said they escorted Herrera using control holds but stated it was not a use of force incident. Deputy Santo made no mention of Inmate Herrera assaulting or attempting to assault any deputy. I asked Santo if Inmate Herrera was injured and seen by medical. Santo told me Inmate Herrera had broken his wrist seven years ago but no injuries occurred during this incident. I told Deputy Santo Inmate Herrera needed to be seen by medical and asked him to report the results as soon as possible. I asked Deputy Santo why I was not notified sooner regarding this incident. Deputy Santo told me he did not believe Inmate Herrera was going to be physically uncooperative and that he makes contact with inmates inside the Classification booths all the time and nothing ever happens. I informed Deputy Santo to remain on duty until I reviewed all available video footage from the overhead cameras on Booking Loop floor and received Inmate Herrera's medical status.

Once I finished conducting briefing, Deputies Santo, Copeland and Rigby walked into briefing and spoke to me. Deputy Santo told me Inmate Herrera had been seen by medical and was given an ice pack for a sore wrist. Deputy Santo told me Inmate Herrera had injured his wrist years ago and not during the incident today.

I reviewed the footage from the overhead cameras on the 1st floor with Deputy Santo. The footage did not reveal any additional information as to what occurred inside the Classification booth or inside cell PM-17. It clearly showed Inmate

P.I. HANDLED BY IA; PLEASE [illegible] 1-10-18

Orange County Sheriff's Department Internal Memo

Herrera being escorted from the Classification booth to cell PM-17. Based on the video footage of the incident, which did not disclose more than I was already told, and the totality of the information given to me by Deputy Santo, I told Deputy Santo to write a Medical Aid report to document the medical care given to Inmate Herrera. Deputy Santo requested a JI# and left for his weekend.

At approximately 2000 hours, I was conducting my compliance check on the First floor. As I walked by Cell PM 17, I was flagged down by Inmate Herrera. Herrera was holding his left wrist which had an icepack over it. I had Deputy J. Hernandez open the cell door for me so I could talk to Inmate Herrera. Once the door was open, Inmate Herrera told me he thought his wrist was broken and the deputies had done it. Inmate Herrera said he did not want to be classified as a Protective Custody inmate and would not allow them to put a Blue wristband on him. He said the deputies opened the booth door and "Rushed" him. He stated the deputies threw him on the ground and twisted his wrists until they put the wristband and handcuffs on him. I asked Herrera to show me his wrist. When I looked at his left wrist, it appeared to be injured. I also noticed a minor abrasion under his right eye. I asked Inmate Herrera how he received the abrasion. He told me it occurred when the deputies had him on the floor of the cell.

I immediately had Deputy Hernandez take Inmate Herrera to Triage to be re-evaluated. I spoke to medical who told me they already had made a request for Inmate Herrera to have an X-ray but it would not be done until Monday at the soonest. After being seen by medical a second time, they informed me Inmate Herrera needed to be sent out to the hospital by transportation tonight in order for his wrist to be X-rayed for a possible fracture.

I immediately informed Lt. E. Larsen I was going to enter the incident into the Use of Force database and instructed deputies involved to write reports regarding their involvement.

Within approximately 1 hour, Inmate Herrera was transported to O.C. Global Anaheim and it was determined his left wrist was fractured. He returned to the IRC around 0400 hours after being treated for the fracture.

On December 20, 2017, all of the deputies involved submitted their reports.

Based on my investigation of this incident and my inability to question the deputies (POBAR), I recommend this incident be referred to command staff for further investigation.

INTERNAL AFFAIRS INVESTIGATION

SYNOPSIS:

On December 16, 2017, at about 1630 hours, deputies Copeland, Santo and Rigby entered the classification booth at the Intake Release Center to place a blue wrist band on inmate Eppie Herrera. While inside the booth, inmate Herrera failed to comply with the deputies commands. The deputies used control holds to place the wrist band on the inmate and during the course of this action, the inmate's wrist was broken.

SUMMARY OF DR #17-049808-REPORT WRITTEN BY DEPUTY ALEXANDER SANTO:

This report was written by Deputy A. Santo and dated 12-20-17. The report was approved by Sgt. M. Castro. The offense is CPC 148(a) (1) - Resisting Arrest. The date and time of the violation is 12-16-17 at approximately 1630 hours. The suspect is Eppie Molina Herrera [redacted] (Bkg #3030410). The Deputies involved are Deputy Santo, Rigby, Copeland and Trautman Below is a summary of Deputy Santos' report. For further details, see a copy of the original report submitted with this file

In the narrative, Deputy Santo wrote that on December 16, 2017 he was working in Classification at the IRC when he overheard Deputy Rigby speaking to inmate Herrera. Herrera appeared to be under the influence and was not clearly responding to Deputy Rigby's demands or questions. Deputy Rigby told Deputy Copeland and Santo he was going to go into the booth to place a band on Herrera. Deputy Santo and Copeland went to assist Deputy Rigby in placing the band on his wrist. The deputies went to the booth and Deputy Trautman opened the door for them. Deputy Rigby directed Herrera to turn around and place his hands behind his back so they could place the wrist band on him. Herrera threw his left hand towards Deputy Copeland. Both Deputy Copeland and Rigby took immediate control of Herrera and placed him against the booth window. Deputy Santo placed handcuffs on Herrera in order to maintain control of his hands. Herrera told the deputies to "fuck off" and denied being a "blue bander". Deputies Santo and Copeland held Herrera against the wall while Deputy Rigby placed the band on Herrera's wrist.

Deputies Santo and Rigby escorted Herrera to holding cell PM 17. The deputies placed him down in the prone position as they removed the handcuffs. Deputy Santo stated he and Deputy Copeland had to forcefully place their hands underneath his stomach, as he was failing to comply with their commands. The deputies were able to exit the cell without further incident.

At approximately 1715 hours, Deputy Santo was notified by Deputy Trautman that inmate Herrera was complaining of pain to his left wrist. Herrera told Deputy Santos that he had broken his wrist three years ago and it never healed right. Herrera said he failed to notify medical staff because he was under the influence of heroin.

Herrera was later sent to the hospital for treatment and it was determined he had a small fracture to his left wrist and was cleared for regular housing.

Under Miranda, inmate Herrera told Deputy Santo that he had broken his wrist three years ago in a domestic dispute. Herrera said he reinjured his wrist about two days before he was arrested and was using heroin to avoid the pain. Herrera said he told the deputies when he was in the booking process that his wrist was hurt and they told him to submit a medical slip when he got to his housing location. Herrera said he was cooperating with the deputies until they grabbed his hand and he decided he did not want to be in protective custody. Herrera admitted to striking Deputy Copeland in an attempt to get him off of him. Herrera apologized to Deputy Santo stating his assaultive behavior was a result of him detoxing from heroin.

SUMMARY OF DR #17-049808- REPORT WRITTEN BY DEPUTY ADAM COPELAND:

This report was written by Deputy A. Copeland and was approved by Sgt. M. Castro. This is a follow up report to the original report. The following is a summary of the report. For further details see a copy of the report attached with this file.

Deputy Copeland was working in Classification when Deputy Rigby requested assistance in placing a wrist band on an inmate in the class booth. Deputy Copeland, Rigby and Santo walked out to booth #1 and directed Herrera to turn and face the wall. Herrera failed to comply with their directives and the deputies entered the booth. Deputy Copeland attempted to grab Herrera's left arm to place him in a control hold and Herrera lifted his arm, clenched his fist and attempted to punch him (Deputy Copeland). Deputy Copeland was able to grab his left arm and place it behind his back. Deputy Rigby and Santo gained control of Herrera's right arm so Deputy Rigby could place the wristband on him. He and Deputy Santo had difficulty keeping Herrera's arms behind his back as he kept stiffening his arms. Deputy Santo was able to place the handcuffs on him and Deputy Rigby then placed the wristband on his wrist.

The deputies escorted him to holding cell PM #17, using control holds and escorting him backwards. The deputies placed him in the holding cell on his stomach where he continued to not cooperate. Deputy Rigby had to forcefully extend Herrera's legs to gain control of him as he kept folding them in. Deputy Santo and Copeland controlled his hands while Deputy Copeland removed the handcuffs. Deputy Copeland later learned that Herrera was having pain in his left wrist and so they had medical come to his cell to evaluate him. Deputy Copeland heard Herrera tell the nurse he had broken his wrist multiple times outside of custody and it had never healed correctly.

SUMMARY OF DR #17-049808- REPORT WRITTEN BY DEPUTY MICHAEL RIGBY:

This report was written by Deputy M. Rigby and was approved by Sgt. M. Castro. This is a follow up report to the original report. The following is a summary of the report. For further details see a copy of the report attached with this file.

On December 16, 2017, Deputy Rigby was working in Classification as a Class Deputy. At about 1630 hours, he was conducting a classification interview with inmate Eppie Herrera. Herrera told Deputy Rigby that he had issues outside of custody for a drug related case that occurred in the 1990's, where money was never sent to an inmate. As a result, he has been identified as a Protective Custody (PC) inmate but now wanted to be part of the general population. Deputy Rigby told him he would remain in Protective Custody and continued to ask

him drug related questions. Herrera admitted to being a heroin addict and using heroin within the past 24 hours. Herrera said he was currently with drawling from the drug. Deputy Rigby asked Herrera to place his arm through the window so he could place the wrist band on him and he refused. Deputy Rigby asked him several times to place his left hand up to the window and he continued to refuse. Deputy Rigby offered to place the band on Herrera in a location out of view from others, but he did not seem to understand.

Deputy Rigby advised Deputy Copeland and Santo that he was going to enter the booth to speak to Herrera and place the wristband on him. Deputies Santo and Copeland went with Deputy Rigby to stand by for assistance. Deputy Rigby entered the booth and told Herrera to face the wall and place his hands behind his back so he could handcuff him and escort him outside. Herrera failed to comply and Deputy Rigby grabbed his right arm and wrist in an attempt to place him in a rear wrist lock. When Deputy Rigby grabbed his arm, Herrera stiffened up, preventing him from controlling his right hand. Herrera clenched his fists and kept his arms stiff to avoid being handcuffed. Deputies Santo and Copeland entered the booth and assisted in placing the handcuffs on Herrera. Deputy Copeland had to forcefully move Herrera's body against the wall to gain control and place the handcuffs on him. Once he was in handcuffs, Deputy Rigby placed the blue wrist band on him.

Deputy Santo and Copeland escorted Herrera to PM Cell #17, placed him on his stomach and removed the handcuffs. Approximately 40 minutes later, inmate Herrera complained of pain to his left wrist. Herrera told him he had injured his wrist a few days prior and believes he re-injured it. Herrera did not tell IRC Triage when he first came in because he was "kicking heroin."

SUMMARY OF DR #17-049808- REPORT WRITTEN BY DEPUTY KEN TRAUTMAN:

This report was written by Deputy K. Trautman and was approved by Sgt. M. Castro. This is a follow up report to the original report. The following is a summary of the report. For further details see a copy of the report attached with this file.

On December 16, 2017, Deputy Trautman stood by as Deputies Copeland, Santo and Rigby entered the classification booth to speak to inmate Herrera. Deputy Trautman watched as the deputies handcuffed Herrera who had refused to have a wrist band put on him. Deputy Trautman did not have any contact with Herrera inside the booth. Deputy Trautman followed behind as they escorted Herrera to PM Cell #17. Deputy Trautman held the Taser on Herrera and gave him verbal commands to comply as the deputies removed the handcuffs from him. Herrera complied and Deputy Trautman did not have to activate the Taser.

At 1730 hours, Deputy Trautman was doing his final safety check when he was informed by inmate Herrera that he had broken his left wrist twice in the past and believed it was broken again. Herrera complained of pain to his wrist and Deputy Trautman informed Deputy Santo.

Video review of incident/ IRC Booking loop

I reviewed all video footage available of the incident. The incident takes place on December 16, 2017 in Classification booth #1 on the first floor of the Intake Release Center Booking loop. Below is a timeline of events:

16:29:13- Deputies Copeland, Rigby and Castro walked out from Classification near Male ID to the class booth where inmate Herrera was in.

16:29:30- Deputies are seen speaking to Herrera from outside the glass booth.

16:29:36- Deputy Trautman opens the door to the booth

16:29:40- Deputies Copeland, Rigby and Santo walk into the booth where the inmate is standing. Deputy Trautman remains outside the booth.

16:29:44- Deputies Santo, Rigby and Copeland are **seen pushing the inmate up against the wall inside the booth.** Deputy Trautman and Deputy Rudisill are seen standing outside the booth watching.

16:29:59- Deputies appear to be **struggling to try to control Herrera** inside the booth.

16:30:17- Deputy Trautman enters the booth, stands inside for approximately 10 seconds and walks out (Deputy Trautman did not make physical contact with Herrera)

16:30:32- Deputy Trautman watches the deputies through the glass still trying to control Herrera

16:30:34- Deputy Trautman re-enters the booth and places his right hand on what appears to be the back of Herrera, to hold him in place.

16:30:41- Deputy Trautman steps back out of the booth, then walks back in and stands in the corner while deputies continue to gain control of inmate Herrera.

16:31:23- Deputy Santo and Copeland secure inmate Herrera and exit the booth while Deputy Rigby and Deputy Trautman follow behind.

16:31:25- Inmate Herrera is handcuffed and escorted by deputies. Herrera is walking backwards while the deputies pull him to keep up.

Post Use of Force Video Review- Interview with Inmate Eppie Herrera by Sergeant Mark Castro

I reviewed the video of the post use of force interview with inmate Herrera by Sgt. M. Castro. The interview took place on December 16, 2017 at 2126 hours in a holding cell at the Intake Release Center. Herrera had his arm bandaged in a sling with his hand exposed. Herrera's left hand was clearly swollen and bruised. He had a cut under his right eye and a cut on his right wrist. Sgt. Castro asked if he had any pre-existing injuries and he told him he did not. He said he broke his wrist about 6-7 years ago and believed it was broken again by the deputies. He said the cut under his eye and his wrist were from when the deputies took him down.

Interview of Witness Deputy Daniel Rudisill- July 24, 2018/ 1300 Hours
Second Interviewer – Sergeant Joe Mauga

I interviewed Deputy Rudisill at the Internal Affairs office. Deputy Rudisill was informed he was a witness in this investigation and chose not to have representation with him during the interview. Deputy Rudisill read and signed the Confidentiality Directive.

Deputy Rudisill has been employed with the Sheriff's Department for six years and is currently assigned to the Central Justice Center. Deputy Rudisill often works overtime at the Intake Release Center and was working in Male Identification on December 16, 2017. During my interview, Deputy Rudisill did not remember the incident. I showed him the video of the incident and he identified himself as one of the deputies standing by outside of the booth where inmate Herrera was in. Even after watching the incident on video, Deputy Rudisill did not remember the incident. Deputy Rudisill said he works several overtime shifts a month and this incident did not stand out to him. He said by watching himself on video, he did not feel there was force being used. He said if there had been force used, he would have gone in and assisted. He said if it was excessive force, he said he would have felt comfortable enough to step in and/or would have reported it. In this incident, he noticed he was just standing there observing which indicated to him that nothing out of policy was occurring.

End of interview 1305 hours

Interview of Witness Deputy Christian Bright- July 24, 2018/ 1400 Hours
Second Interviewer – Sergeant Joe Mauga

I interviewed Deputy Bright at the Internal Affairs office. Deputy Bright was informed he was a witness in this investigation and chose not to have representation with him during the interview. Deputy Bright read and signed the Confidentiality Directive.

Deputy Bright has been employed with the Sheriff's Department for 6 ½ years and is currently assigned to the Intake Release Center in the Classification Unit. Deputy Bright said he was working Classification on December 17, 2017 and stood by with Deputy Santo as he Mirandized and interviewed inmate Eppie Herrera. Deputy Bright told me he remembered standing by during the interview, but did not remember anything that was said. He told me he had no independent recollection of the conversation and he read the report prior to this interview to help refresh his memory. Deputy Bright could not confirm if inmate Herrera made the statements to Santo and said he was there mainly for safety purposes and was not paying attention to the interview itself. Deputy Bright said the interview was not recorded.

End of interview 1405 hours

Interview of Principal Deputy Adam Copeland/ Representative Brittney Collet- July 25, 2018/ 0533 Hours
Second Interviewer – Sergeant AJ Patella

I interviewed Deputy Copeland at the Internal Affairs office. Prior to conducting the interview, I provided him with the Confidentiality Directive, Miranda Advisement, and the Lybarger Admonishment. Deputy Copeland acknowledged that he understood all the information provided and stated he had no questions.
Deputy Copeland has been employed as a Deputy Sheriff for 2 ½ years and is currently assigned to the Intake Release Center (IRC) as a Classification Deputy. Deputy Copeland was working on December 16, 2017 as a Classification Deputy when he was asked by Deputy Rigby to assist him with placing "blue band" on an inmate who was not cooperating.

Deputy Copeland told me it is common for an inmate to refuse to put a "blue band" on because of what it represents, so when this occurs, they will remove the inmate from the booth and escort him to a cell out of view of others and place the wristband on.

Deputy Copeland said he, Deputy Rigby and Deputy Santo all walked out from classification area to the classification booth. They went inside the booth and asked inmate Herrera to place his hands behind his back, Herrera resisted them by stiffening his arms and reached back with his left arm as if he was going to hit him (Deputy Copeland). The three of them pushed Herrera against the wall inside the cell and placed the handcuffs on him. Herrera continued to stiffen his arms to prevent them from placing the wristband on, so they turned him around, placed him against the wall and placed the wristband on.

I asked Deputy Copeland if these incidents occur often where they have to go in to remove inmates and place wristbands on them, he told me "incidents like this happen, this one was just abnormal." I asked him when they have instances where they have to go in and remove someone and/or place a wristband on them, do they normally notify a sergeant before they go into a booth and possibly go hands on with an inmate? Deputy Copeland hesitated and then said, "Yes, we are supposed to."

I asked Deputy Copeland if they were supposed to notify a sergeant before entering, then why was there not a sergeant present? He told me because in this particular case, the inmate was compliant. I told Deputy Copeland that the other deputies' reports indicated the inmate was not cooperating and appeared to be under the influence. Deputy Copeland then stated he did not know if the inmate was compliant because he was not specifically classifying the inmate at the time and he was just asked to assist Deputy Rigby with placing a wristband on. Deputy Copeland said no one attempted to notify a sergeant prior to entering.

I showed Deputy Copeland the video and asked him to discuss the events on camera. He told me they went into the booth with the intent to place a wristband on inmate Herrera. They gave Herrera commands from the exterior of the booth but he failed to comply. Deputy Trautman opened the door and they went in to grab his wrist, to place a wrist band on him, and he began to resist. He as his partners pushed Herrera up against the wall and placed handcuffs on him. I asked, in his opinion, while in the booth, did he or his partners use force and he told me "No". I asked him if they used control holds and he told me "Yes." We pointed out to Deputy Copeland that from the exterior of the booth, inmate Herrera was not complying with their orders but yet they still chose to enter the cell, without notifying a sergeant or grabbing a camera and he confirmed this to be true.

Deputy Copeland could not provide a reason as to why they chose to go into the cell rather than taking the precautionary steps to notify a sergeant or document the encounter by using a video camera.

Deputy Copeland stated while inside the booth, using control holds, Deputy Rigby placed the wrist band on Herrera and they escorted him to a nearby holding cell. I asked Deputy Copeland after they moved him to another cell, was there any force used that required documentation and he said "Yes." He told me when they were inside the cell, Deputy Rigby gave him directives to go to his knees and he did but then tucked his knees into his chest. Deputy Rigby had to use force to remove his legs out from under his chest to extend his legs and put him in the prone position. They then removed the handcuffs and had to force his arm under his stomach. He felt the whole situation inside the cell required use of force documentation. Deputy Copeland appeared confused as to what level rose to a use of force inside the cell. After further discussion about the exact details of the events that occurred inside the cell, he changed his mind and did not believe force was used on the inmate while inside the cell.

Deputy Copeland said after the incident, Deputy Santo made several attempts to call a sergeant over the radio and over the phone and could not find the sergeant. He said they then went back to their regular duties of classing inmates. While, they were in "Class", they were later advised by Deputy Trautman that the inmate required medical attention. They checked on the inmate, provided medical attention, and later found Sgt. Castro (approximately 45 minutes later) and briefed him on what happened. They told Sgt. Castro that they used control holds to place a wrist band on an inmate and the inmate was now complaining of a hurt wrist. Sgt. Castro directed them to write a Medical Aid report. He said the sergeant later told them to not write a Medical Aid report and to write a Use of Force report. I asked Deputy Copeland why they charged the inmate with PC 148 and he told me he thought it was because the inmate tried to hit him. I asked him if it was his idea to charge him with that and he told me it was Deputy Santo's decision. **(Investigative note: Deputy Santo told me he was directed by Sgt. Castro to write the 148 report).**

I asked Deputy Copeland if he would have done anything differently with regards to this incident and he told me he would have notified a sergeant prior to entering the classification booth and/or have someone grab a camera to document the incident.

End of interview 0557 hours

Interview of Principal Deputy Alexander Santo/ Representative Brittney Collet- July 25, 2018/ 0748 Hours
Second Interviewer – Sergeant Chad Taylor

I interviewed Deputy Santo at the Internal Affairs office. Prior to conducting the interview, I provided him with the Confidentiality Directive, Miranda Advisement, and the Lybarger Admonishment. Deputy Santo acknowledged that he understood all the information provided and stated he had no questions.

Deputy Santo has been employed as a Deputy Sheriff for approximately 2 ½ years and is currently assigned to the Intake Release Center as a Classification Deputy. Deputy Santo was working Classification on December 16, 2017 and recalled a classification incident involving Eppie Herrera. I asked Deputy Santo if inmate Herrera had

an issue with placing a blue wristband on him, identifying him as a "protective custody" inmate. Deputy Santo said they were talking back and forth with inmate Herrera regarding placing a blue band on him and he said "hey look, I don't want all these people to see, I know all these people on the streets. " Deputy Santo said he was able to recall him saying "Hey I'm PC here, but I'm still active on the street." Deputy Santo said they were talking with him, he seemed to have a "kicking demeanor, he was detoxing." Deputy Santo said after speaking with him, we said "hey, if we just place the band on somewhere else, would you be okay with that?' And he said he was totally okay with that." (**Investigative note: Deputy Santo wrote in his report that Deputy Rigby was trying to communicate with inmate Herrera and Herrera was mumbling and they could not understand what he was saying**).

Deputy Santo said Deputy Rigby formed a plan to go out to the booth and cuff him up because he was detoxing. They would then move him to another cell and place the band on him where his friends would not see him. Deputy Santo said this is commonly done in classification and on the booking loop and because of this, they did not feel they needed to notify a sergeant. Deputy Santo stated the inmate was cooperative and complying and did not feel it rose to the level of getting a sergeant involved.

Deputy Santo was questioned why four deputies responded together to enter the booth to place a wrist band on and his response was that inmates are unpredictable and he was not sure what this inmate would do. In further questioning to justify the need for four deputies to place a wrist band on a complying inmate, Deputy Santo responded that Deputy Rigby had just asked them to help.

I showed Deputy Santo the video and asked him to explain the sequence of events. Deputy Santo said they entered the cell and they started to use control holds and inmate Herrera threw his hand up at Deputy Copeland. Deputy Santo did not necessarily see inmate Herrera throw his hand up but noticed Deputy Copeland grabbed his arm. **(Investigative note: Deputy Santo wrote in his report that Inmate Herrera threw his left hand towards Deputy Copeland, indicating he knew specifically which hand he threw up as if he witnessed the incident).**

I then asked why once the door was open they rushed in. He said they were going to handcuff the inmate. Deputy Santo said the inmate was cooperative when they entered, he turned around and placed his hands behind his back per their commands. Once they entered, he turned his head to the left which made him think that maybe the inmate was going to do something out of the ordinary so they grabbed him and pushed him up against the wall.

They placed the handcuffs on him and because he wasn't cooperating they had him in a position of advantage, they then decided to place the wristband on him inside the booth as opposed to the cell out of view as initially intended. Deputy Santo said that while inside the booth, he did not feel that any force was used other than control holds.

Once they left the booth, they escorted inmate Herrera down to a holding cell, where they proned him out. Deputy Santo said they removed the handcuffs and told him to place his hands under his stomach. The inmate said he couldn't so they placed his hands under his stomach for him. They exited the cell and did not feel at any time they used force.

After the incident, he, Deputy Copeland and Deputy Rigby did not feel the situation went well and wanted to notify a sergeant. He said the three of them checked both the Classification and Operations Sergeant's office but no one was there. He said he tried calling over the radio but the radio kept clicking as if the battery was dead. Deputy Santo replaced the battery but it still didn't work. He then went upstairs to Housing but still was unable to locate a sergeant. Deputy Santo said he went back to classifying inmates and continued to look for a sergeant every ten minutes but still was unable to locate anyone.

About 45 minutes later Deputy Trautman came over to Classification and told them that inmate Herrera was complaining his arm hurt. Deputy Santo walked out to the inmate and noticed his wrist was red. He asked inmate Herrera if he was having pain in his wrist and Herrera told him he was. Deputy Santo called medical over to check out his wrist. Based on the inmate's previous behavior, Deputy Santo asked the inmate if medical could come in to see him or was he going to continue to be uncooperative. Inmate Herrera apologized for his behavior earlier and said he was detoxing and that medical could enter the cell. We asked Deputy Santo if anyone was with him and he said only Deputy Trautman was with him. Deputy Santo said the nurse looked at his wrist and asked if he wanted an aspirin. Inmate Herrera refused the aspirin but asked for an ice pack. Inmate Herrera also requested to see a nurse the next day if it still hurt in the morning. The nurse then told him she would put him in for an x-ray. Deputy Santo said he shut the door and there was no further issue.

We then asked Deputy Santo if he had asked inmate Herrera if his wrist was hurt prior to coming in. Deputy Santo said he did ask him and inmate Herrera told him he had broken his wrist a year ago and it never healed right. Deputy Santo asked him if he re-injured it recently and inmate Herrera told him he re-injured it a couple days before he came into custody. Deputy Santo said the nurse was standing right there and she asked him why he did not tell her when he came into triage and he(Herrera) said he didn't want to be placed in medical housing as a protective custody inmate because of the program. Inmate Herrera also mentioned it hurt while he was being live scanned.

Deputy Santo said when he was walking back to class, he was told that the sergeants came back in. Deputy Santo went on the radio and asked Sgt. Castro for his phone number and called him on the telephone. Deputy Santo called Sgt. Castro and told him what happened over the phone. He said Deputy Copeland and Deputy Rigby were standing by when he called him. He said the sergeant asked if any force was used and he told the sergeant they used control holds and proned him out. He told the sergeant he did not believe they used force but if he wanted them to write a Use of Force report, they would. Sgt. Castro responded by saying based on what Deputy Santo had told him, it would be a JI, Medical Aid but he would review it. Sgt. Castro told him he was about to go into briefing and asked Deputy Santo to meet him in the briefing room and they would discuss it after briefing. He asked for Deputy Copeland and Rigby to also meet him to discuss it.

Deputy Santo said they met Sgt. Castro in briefing and told him the following: They entered a booth to put a wrist band on an inmate who was cooperative, they used control holds to place the wrist band on and escorted him to another cell where they proned him out and exited the cell without incident. They told him they tried to get a hold of him immediately after, but they could not find him to brief him on the incident. The inmate was now complaining his left wrist hurt. They told Sgt. Castro that triage saw him and offered him an aspirin and he refused and asked for an ice pack in which they gave him and scheduled him for an x-ray. Sgt. Castro responded that it would be a JI, Medical Aid and that he could write it later. Deputy Santo agreed to write it for the group

and they all went home. Deputy Santo said he received a phone call at home around 2200 hours that evening from Sgt. Castro informing him that the incident was going to be a Use of Force and not a Medical Aid. Deputy Santo asked if everything was okay and he told him it was and that another nurse checked out inmate Herrera and decided to send him to the hospital. Deputy Santo informed him he would be in the next day for an overtime shift and he would write it, he confirmed that Deputy Copeland and Rigby also needed to write a follow up report. Sgt. Castro also requested he come talk to him when he returned back to work.

We asked Deputy Santo if he believed that based on inmate Herrera's pre-existing injury that maybe the control holds aggravated it and caused his wrist to be further injured. He agreed that it was possible. We asked him if he relayed this information to Sgt. Castro emphasizing that the injury could have resulted from their actions. He said he did. We asked if he knew the use of force policy with regards to complaint of pain and that if an inmate is complaining of pain, it is a use of force. Deputy Santo responded that it depended on the sergeant and not every sergeant views injury as a use of force. Despite telling Deputy Santo that is standard amongst sergeants to do a use of force when there is injury, he disagreed and said he has had sergeants decide differently.

Deputy Santo felt he was clear in his explanation that they did not use force, but that pain occurred after their control holds were used and he was directed to write a Medical Aid report by Sgt. Castro. Deputy Santo said he had offered to write a Use of Force report but Sgt. Castro again told him to write a Medical Aid report.

Deputy Santo said he met with Sgt. Castro the next time they were at work together as requested. Sgt. Castro appeared to seem okay with everything and only pointed out that he had wished they had used a hand held camera to document the incident, which Deputy Santo agreed. During their conversation, Sgt. Castro said to him, "so he threw his hand back at Copeland?" Deputy Santo responded "Yea, he kind of threw his hand back sir, it was kinda whino." Sgt. Castro sat back and appeared to be pondering it, Deputy Santo said "so do you want us to charge him, sir, it really wasn't anything big?" He said Sgt. Castro responded by looking at him, shrugging his shoulders and then said 148 (indicating to him to charge him for PC 148). Deputy Santo said "148?" and he said Sgt. Castro told him yes, you can charge with 148. Deputy Santo said no one else was present during this conversation.

Deputy Santo said the next time he saw Deputies Copeland and Rigby he told them the sergeant wanted them to write a 148 report because the inmate threw his arm back at Copeland. Deputy Santo remembered telling them that he didn't know why the sergeant was having them do a 148 report because t it was kind of dumb but he has been told in the past to write PC 69 reports for no reason so he didn't question it. He personally thought it should have been just a Use of Force report. Deputy Santo said he, Deputy Copeland and Deputy Rigby all thought it was ridiculous to write a 148 report for that and they joked about it for a couple days.

Since they were told to write a 148 report, Deputy Santo interviewed Herrera reference the assault. Deputy Santo had Deputy Bright stand by to witness the interview. Deputy Santo said the inmate was apologetic and should not have resisted the deputies. Deputy Santo also said Herrera acknowledged throwing his arm back at Deputy Copeland and went on to talk about previously assaulting a correctional officer in State Prison. I asked Deputy Santo if he recorded the incident by using a hand held recorder or video camera and he told me he did not. He said he has Mirandized and interviewed several inmates and he has never recorded any of his interviews.

Deputy Santo later turned in his report into Sgt. Castro. He said Sgt. Castro identified some grammatical errors and had him remove the statement that stated something to the effect of "they were unable to locate a sergeant to inform them of the incident, due to shift change." Deputy Santo questioned why he needed to take it out and Sgt. Castro told him it was irrelevant to the crime of 148. Deputy Santo felt this was important and should have been kept in the report. Deputy Santo spoke with Sgt. Montoya about his feelings regarding how this situation was handled by Sgt. Castro. Deputy Santo told Sgt. Montoya that he felt he should not have taken the sentence out about not locating the sergeant. He also expressed frustration on how Sgt. Castro wanted them to write a Medical Aid report, then had them change it to a Use of Force report and then had them add a 148 charge.

I asked Deputy Santo if he would have done anything different, he said he would have had a camera documenting the incident along with the Mirandized interview with the inmate.

End of interview 0900 hours

Interview of Principal Deputy June Jeong / Representative Brittney Collet- July 25, 2018/ 0930 Hours
Second Interviewer – Sergeant AJ Patella

I interviewed Deputy Jeong at the Internal Affairs office. Prior to conducting the interview, I provided him with the Confidentiality Directive, Miranda Advisement, and the Lybarger Admonishment. Deputy Jeong acknowledged that he understood all the information provided and stated he had no questions.

Deputy Jeong has been employed as a Deputy Sheriff for approximately 1 year and is currently assigned to the Intake Release Center. Deputy Jeong was working on December 16, 2017 as the Male identification deputy. He said he was live scanning inmates when he saw deputies Santo and Copeland walk by with inmate Herrera. He noticed they had him in a control hold and walking backwards. Deputy Jeong followed behind to assist them if needed. He watched as they placed inmate Herrera in a cell and proned him out on the ground and removed his handcuffs. Deputy Jeong only stood by and did not witness any of the deputies use force.

Deputy Jeong stated he had live scanned inmate Herrera about an hour prior to the incident and noticed his wrist was slightly disfigured. He recalled inmate Herrera asking him to be gentle with his wrist because it had been broken in the past. Deputy Jeong said he was gentle when live scanning the inmate per his request. After he was finished, he placed him in a holding cell, prior to being screened by classification. Deputy Jeong did not notify anyone about Inmate Herrera's wrist being slightly disfigured or the need to be gentle when handling him.

End of interview 0936 hours

Interview of Principal Deputy Michael Rigby/ Representative Brittney Collet- July 25, 2018/ 0957 Hours
Second Interviewer – Sergeant Chad Taylor

I interviewed Deputy Rigby at the Internal Affairs office. Prior to conducting the interview, I provided him with the Confidentiality Directive, Miranda Advisement, and the Lybarger Admonishment. Deputy Rigby acknowledged that he understood all the information provided and stated he had no questions.
Deputy Rigby has been employed as a Deputy Sheriff for approximately 4 years and is currently assigned to the Intake Release Center as a Classification Deputy. Deputy Rigby was working Classification on December 16, 2017 where he was screening inmate Eppie Herrera. He identified Herrera as needing to be classified as Protective Custody. He tried to explain to Herrera that he was being classified as Protective Custody and Herrera did not want to be classified as such. Deputy Rigby tried to explain to him why he was protective custody and he did not seem to understand. Deputy Rigby believed that Herrera was under the influence of narcotics and did not seem to understand what he was telling him so he decided to go into the booth and speak with him. Deputy Rigby told me in his experience, the inmates are more accepting of the "blue band" if they go speak with them face to face and move them to another cell to put it on. Deputy Rigby told Deputy Copeland and Santo that he was going out to speak with inmate Herrera to place a blue band on him and they followed him out to assist.

Deputy Rigby told me this occasionally happens where they have to go in and speak to an inmate who refuses to place a band on. He said when the inmate is non-combative, they do not notify a sergeant. In this case, inmate Herrera was not aggressive and he did not view him as a threat. I asked if Herrera was not a threat, then why did he have to bring three other deputies to assist him. He told me it is common practice that if they go out on the floor, then they all go together. He said the plan was to talk to the inmate, handcuff him, remove him from the booth to another cell and then place the band on him. Deputy Rigby was questioned as to why he felt the need to handcuff the inmate if he was not aggressive prior to entering the booth and he felt it was for safety reasons since he did not want the band to be placed on him, it would be easier to place the band on him if he was handcuffed.

Deputy Rigby went to the booth where Herrera was and gave him verbal commands to place his hands behind his back. Inmate Herrera did not comply and appeared to coming down from narcotics. Since he was not complying, Deputy Trautman opened the door and he entered the booth. Deputy Rigby grabbed Herrera's arm and he stiffened his arm. Deputy Rigby put his wrist behind his back and Herrera started to push forward as if he was resisting. Inmate Herrera was not being aggressive, but merely just resisting. Deputy Copeland and Santo came in and assisted by grabbing the other wrist to gain control. Using controlling force, they were able to gain control of both wrists, handcuff Herrera and placed the wrist band on him. Inmate Herrera did not make any statements that he was in pain and merely stated he didn't want to be a "blue bander." They escorted inmate Herrera down to cell PM 17 and placed him on the ground in a prone position and uncuffed him. Deputy Rigby held him down, crossed his legs and held him there and Deputy Trautman placed the Taser on Herrera's back. They advised him not to move until they exited the cell. At no time while in the classification booth and/or the holding cell did they feel they used force that needed to be documented. After they exited, Herrera did not complain of any pain and sat up on the bench.

After the incident, Deputy Rigby, Copeland and Santo went to notify a supervisor but it was shift change and there wasn't a sergeant or lieutenant in either of the offices. Deputy Rigby believed that Deputy Santo attempted to contact a sergeant over the radio but did not get a response. They felt the reason for notifying the sergeant was to keep him informed of what they did, but did not feel that they used force.

Since they did not feel there was an immediate need to notify a supervisor, the three decided to go back to their classification duties and notify a supervisor when they returned to their offices. While they were "classing", approximately forty minutes later, Deputy Trautman came into their work area and told them that inmate Herrera was now complaining of pain to his wrist.

Deputy Rigby said he, Deputy Copeland, Santo and Trautman all responded to the cell where Herrera was at and called medical over to look at his wrist. They spoke with inmate Herrera and asked him what happened and he told them he had pain in his left wrist. Deputy Rigby said they asked him what happened and he said "I may have re-injured my wrist." Deputy Rigby believed Herrera was implying that they (the deputies) may have re-injured his wrist when they placed him in a rear wrist lock. Deputy Rigby said he did not notice any cuts to Herrera's face or right wrist but did say his left wrist did look swollen. Deputy Rigby said that Deputy Santo talked to the inmate and he told him that he had broken his wrist three or four times in the past. Deputy Rigby believed that since he had broken his wrist so many times in the past, they may have broken it when they placed him in a rear wrist lock.

Deputy Rigby noted they were not aware that Inmate Herrera had prior injuries to his wrist and had they known this, they may have treated the situation a little differently. Deputy Rigby stated he would have only known about his weak wrist if inmate Herrera would have disclosed it to triage when he came in and he would have received ta J112 form indicating this information, which he didn't. Although the inmate communicated his weak wrist to Deputy Jeong, this information was not communicated to classification. Deputy Rigby also noted that inmate Herrera was apologetic for his behavior.

Deputy Rigby didn't believe they used excessive force but since they may have broken his wrist during the rear wrist lock and he was complaining of pain, they felt the need to notify a sergeant immediately.

They located Sgt. Castro in the briefing room and told him "exactly what happened, we told him the inmate was refusing to be a blue bander, so we escorted him out of the booth using control holds into PM17, he did not appear to have any injuries but forty minutes later, he complained of pain." They did tell Sgt. Castro that the inmate had a pre-existing injury. Deputy Rigby said they asked Sgt. Castro if he wanted them to write a Use of Force report and he told them to write a Medical Aid report. When asked exactly what was said, he said he was not sure because Deputy Santo was doing most of the talking.

Deputy Rigby believed that a Use of Force should have been written and not a Medical Aid, but he did not want to second guess the sergeant. Deputy Rigby said Deputy Santo agreed to write the Medical Aid and Deputy Rigby went home as it was the end of his shift. Deputy Rigby said Deputy Santo called him the next day and told him they needed to write a Use of Force report instead of the Medical Aid report.

Deputy Rigby wrote his portion of the Use of Force report when he returned from his weekend. I asked Deputy Rigby who decided to attach a 148 charge to the report. He told me when they were all back at work

and had decided to write the Use of Force report, they asked Sgt. Castro if he wanted then to also write a 148 report and he told them "yes." **(Investigative note: When Deputy Rigby was re-interviewed, he said Deputy Santo told him to write the 148 report but believed this information came from Sgt. Castro, he did not directly hear Sgt. Castro give the order).** When questioned if he felt it rose to the level of 148, he said he did not think so. He felt it should have just been a Use of Force report. Deputy Rigby stated that Sgt. Castro reviewed and signed his report and did not ask him to add or delete any information.

Deputy Rigby stated in the future if he needs to enter a booth to put a band on, he will notify a sergeant and/or grab a camera to document the incident.

End of interview 1030 hours

Interview of Principal Deputy Ken Trautman/Representative Brittney Collet - July 25, 2018/ 1256 Hours
Second Interviewer – Sergeant AJ Patella

I interviewed Deputy Trautman at the Internal Affairs office. Prior to conducting the interview, I provided him with the Confidentiality Directive, Miranda Advisement, and the Lybarger Admonishment. Deputy Trautman acknowledged he understood all the information provided and stated he had no questions.

Deputy Trautman has been employed with the Sheriff's Department for 21 years and is currently assigned to the Intake Release Center as the Booking Prowler. Deputy Trautman said he was working on December 16, 2017 on the booking loop when the Classification deputies came out to the classification booth to speak with inmate Herrera. Deputy Trautman stood by as the cover officer while the deputies went to speak with the inmate inside the booth. Deputy Trautman stated he opened the class booth for the deputies because he was the only one with keys. He said he stood by as the deputies placed handcuffs on inmate Herrera who was refusing to put a blue wristband on. Deputy Trautman said Deputies Santo, Copeland and Rigby all went into the booth and placed the handcuffs on inmate Herrera. Deputy Trautman stated he did not see the deputies use any force to effect this. I asked if he saw the inmate swing his arm toward the deputies and he said he did not recall seeing that.

I asked Deputy Trautman if it is common for the Class deputies to go into a booth and place a wrist band on an inmate. He said it does happen sometimes. I asked him if a sergeant is usually present when this happens or at least a camera is on to document the action and he said it's at the discretion of the deputy if he feels the inmate is assaultive or combative. In this incident, he believed the deputies did not feel the need for a sergeant or camera.

Deputy Trautman said the deputies escorted inmate Herrera to PM 17 where they proned him out on his stomach and placed his legs in a scissor position. They removed the hand cuffs and had him place his hands under his belly. Deputy Trautman said they all exited the cell without incident and at no time was any force used inside the cell.

Deputy Trautman went back to his assigned duties. Just before his end of shift, he was making his final safety check of the floor when inmate Herrera told him he believed his arm was broke and was in pain. Deputy

Trautman asked him how he knew his arm was broke and he told him he had broken his arm once or twice before and knew what a break felt like. Deputy Trautman then notified Deputy Santo, Rigby and Copeland of the injury since they handled the incident. Deputy Trautman told them the inmate needed to be seen by medical. Deputy Trautman did not remember if he stood by when medical was there. Deputy Trautman went home for the night and was later told to write a follow up to a Use of Force.

Deputy Trautman did not feel at any time force was used by the deputies and had he witnessed forced used, he would have immediately notified a sergeant. Although Deputy Trautman did not feel force was used, he did feel a Use of Force report should have been written once the inmate complained of pain.

When asked if he would have done anything different, he stated he would have gotten a camera to document the incident.

End of interview 1309 hours

Interview of Witness Lieutenant Eric Larsen- July 25, 2018/ 1435 Hours
Second Interviewer – Sergeant Chad Taylor

I interviewed Lt. Larsen in the Intake Release Center, Administration conference room. Lt. Larsen was informed he was a witness in this investigation and chose not to have representation with him during the interview. Lt. Larsen read and signed the Confidentiality Directive.

Lt. Larsen said he started his shift at 1630 hours and was in his office which was directly across from the sergeant's office. At some point just before the 1800 briefing, Deputy Santo and Copeland went to Sgt. Castro who was in the sergeant's office. Lt. Larsen overheard them tell him about an incident that occurred involving wristlocks but they said it didn't meet the criteria of a use of force.

Later on, Deputies Santo, Copeland and Rigby all came into the briefing room, following the 1800 briefing and Lt. Larsen overheard them tell Sgt. Castro more about the incident and that they were going to write a Medical Aid report because he had a sore wrist from a prior injury that may have been aggravated in this incident. Lt. Larsen believed they did not feel this was a use of force incident. Lt. Larsen said he was standing in the back of the room while the deputies were speaking with Sgt. Castro and was not part of the conversation. At this point, neither he nor Sgt. Castro had time to look into the incident but felt the way the deputies "sold it" was that they were just giving the sergeant a "heads up" and that "it was not a big deal, it's not a use of force" and that's what they were "selling to Sgt. Castro." Lt. Larsen felt Sgt. Castro was getting more of a "sales pitch from the deputies and not 100 percent of the story." Lt. Larsen was unsure if the deputies suggested to write a Medical Aid or if Sgt. Castro suggested they write a Medical Aid report.

Lt. Larsen said he did not speak with Sgt. Castro in the briefing room about the incident and it wasn't until later after Sgt. Castro did his security check of the floor and was flagged down by the inmate, that he (Sgt. Castro) then came into his (Lt. Larsen's) office and spoke to him about the incident. They pulled the video and reviewed it and determined a Use of Force was necessary.

Once Lt. Larsen was notified of the incident, he went and spoke with inmate Herrera and he could see that his wrist was injured. Inmate Herrera told Lt. Larsen that the injury occurred as a result of the deputies actions. Lt. Larsen said after speaking with inmate Herrera, he went back to his office and called Captain Lagaret and briefed him on the incident. He informed Captain Lagaret that the deputies had since gone home for the day and he directed him to have them write a Use of Force report as soon as they returned back to work. Lt. Larsen stated Sgt. Castro then pulled a report number for a Use of Force and notified the deputies via telephone informing them to write a use of force when they returned to work.

I asked Lt. Larsen, in his experience in the jail, what is the likelihood that a deputy is unable to locate a sergeant? Lt. Larsen told me there is always a supervisor in the facility that could be located and if they were not specifically in their office, then the deputies know that they can reach out to Main Control or do an "all call" of the facility and a supervisor would respond. **(Investigative note: Given the time of the incident, the sergeants were most likely changing out for briefing and were in the locker room).** Lt. Larsen stated he would expect his staff to keep checking for a supervisor, using all means necessary until one was located.

Lt. Larsen was asked how a 148 charge came about. Lt. Larsen was not sure whose decision it was but presumed the Deputy Santo added the charge. He stated he reviewed the report and learned the next day when Deputy Santo came in, he had Mirandized the inmate and wrote about the inmate's past prison history and past assaultive behavior and now they were stating the inmate tried to hit one of the deputies. Lt. Larsen was unaware of any of this until he read the report as none of that information had been conveyed to him. Although Lt. Larsen questioned this, he and Sgt. Castro were directed by Capt. Lagaret to not question the deputies, coach them or try and mentor them in anyway with regards to their report because this case was going to be turned over to Internal Affairs for a more thorough investigation.

End of interview 1502 hours

Interview of Principal Sergeant Mark Castro- August 3, 2018/ 1625 Hours
Second Interviewer – Sergeant Chad Taylor

I interviewed Sgt. Castro at the Internal Affairs office. Prior to conducting each interview, I provided him with the Confidentiality Directive, Miranda Advisement, and the Lybarger Admonishment. Sgt. Castro acknowledged he understood all the information provided and stated he had no questions. Sgt. Castro chose not to have a representative with him during the interview.

Sgt. Castro has been employed with the Sheriff's Department for 20 years and is currently assigned as a sergeant at the Intake Release Center. Sgt. Castro was working on December 16, 2017 as the Operations Sergeant. He arrived on shift at 1630 hours. He went to change out and returned back to his office. He said he had been in and out of his office conducting his sergeant's duties when he received a phone call at about 1745 hours from Deputy Santo. Deputy Santo had told him they had an inmate who had refused to go with the program and put a wristband on. Deputy Santo told him the inmate was verbal at first but complied once they opened the door. Deputy Santo told him they used control holds, put the wrist band on and escorted him to a nearby cell. Sgt. Castro asked Deputy Santo if there were any issues that he should be aware of and

they had told him everything was fine and that they were able to get the wristband on him and no force was used.

Sgt. Castro did not have a good feeling about the incident but was rushing to go to briefing so he didn't look too much into it. Sgt. Castro didn't feel comfortable sending the deputies home right away and told Deputy Santo to check on the inmate and he would look more into it when he returned from briefing.

While Sgt. Castro was at briefing, the deputies came in to update him and they told him the inmate was now complaining of pain but he had hurt it outside of custody. The deputies told him the inmate had broken his wrist about a year ago. Sgt. Castro asked if they provided medical services and had the nurse look at his wrist and they told him they did. Sgt. Castro said he felt that if medical treated the inmate, they would at least need to do a Medical Aid but he wanted to look at the video prior to making any decisions.

Sgt. Castro said he, Deputy Santo and Deputy Copeland went into his office and reviewed the video. Sgt. Castro said from the camera angles he reviewed, he could not see too much of the incident because they were inside the booth and it was dark. He noticed on the video they were walking him backwards and thought maybe they hurt his wrist when they had him in a wrist lock but the deputies told him that the inmate's injuries were not a result of their actions.

Sgt. Castro felt the deputies did "down play" the incident and Deputy Santo seemed rushed when telling him what happened. Deputy Santo told him what they did, but followed it up with "but don't worry about it, we took care of it." He knew Deputy Santo had "down played" another incident before with another sergeant and was a bit skeptical of his story but wanted to trust the deputies and what they were telling him (that the injury was not a result of their actions).

We asked if the deputies, at any time, had offered to write a Use of Force report and he said they did not. He said had they offered, he probably would have told them to write it to be safe, but in this case that did not happen. Sgt. Castro made the decision based on the information he was given by the deputies, and directed them to write a Medical Aid report. He also told them they could go home for the night and to write the report later.

After the deputies left, Sgt. Castro was doing his floor check and walked by inmate Herrera who flagged him down and asked to speak with him. Inmate Herrera told him his wrist was hurt after the deputies rushed in the booth he was in, held him down and put a wrist band on him. Inmate Herrera had told him that he had broken his wrist in the past but this injury was a result of the deputies' actions. Sgt. Castro could see that inmate Herrera's wrist was swollen and requested for medical to take a second look at the injury. At that point, Sgt. Castro realized the incident was more then what he was told and he had wished he had initially looked into it further. He then informed Lt. Larsen about the inmate's injury and they both agreed it should be a Use of Force report. Sgt. Castro pulled a DR# and retitled the JI# to a use of force and emailed Deputies Santo, Copeland and Rigby and informed then to write a Use of Force report. Deputy Santo later called Sgt. Castro and asked if everything was okay. Sgt. Castro explained to Deputy Santo that the incident was more then what he was told and that they needed to write a use of force. Deputy Santo agreed to write the Use of Force when he came in the next day for overtime.

I asked Sgt. Castro whose decision it was to charge the inmate with PC 148 and he said he didn't know which of the deputies made that decision. He said he (Sgt. Castro) came into work after his weekend and was provided the reports. He was surprised to see the 148 report because he was never told that the inmate tried to hit them. Sgt. Castro said he read and corrected it for grammar. He didn't question the 148 because the elements were in the report and was told by Lt. Larsen that the Captain was going to send this over to Internal Affairs and he did not want them telling the deputies what to write or question what they did. I directly asked Sgt. Castro if he had discussed with Deputy Santo about charging the inmate with 148 and he said he never discussed it with him and the first he knew about it was when he read their report. **(Investigative note: Deputy Santo stated in his interview that he was directed by Sgt. Castro to write a 148 report).**

Sgt. Castro did admit that his initial decision to write a Medical Aid was an accumulation of not having all of the information, trusting the deputies and him not researching it further before making a decision. Looking back, Sgt. Castro wished he would have taken the time to look into it further and not let the deputies rush him into making a decision. Sgt. Castro felt he was not given all of the facts but did feel it was his job to slow down and look into it, so he could make a proper decision.

End of interview 1730 hours

Telephone Interview of Witness Sergeant Alex Montoya- September 28, 2018/1500 Hours

I spoke to Sgt. Montoya on the telephone and informed him he was a possible witness to a use of force investigation. I read the Confidentiality Directive to him over the phone and he acknowledge it and agreed to speak with me.

Sgt. Montoya was the Classification Sergeant at the IRC and was off duty at the time of the incident. I briefed him about the incident to refresh his memory. I told Sgt. Montoya that Dep. Santo stated in his interview that he had spoken to him about the incident and may have voiced some concerns about writing not only a Medical Aid but also a 148 report. Sgt. Montoya remembered hearing about the incident but did not recall specific issues that Dep. Santo may have had. Sgt. Montoya could not provide any further information regarding the incident.

End of interview 1510 hours

Second Interview of Principal Deputy Michael Rigby - October 11, 2018/ 0858 hours
Representative Samantha Swanson /Second Interviewer – Sergeant Joe Mauga

I conducted a second interview with Deputy Rigby in the Internal Affairs Office. Prior to conducting the interview, I provided Deputy Rigby with the originally signed Confidentiality Directive, Miranda Advisement and the Lybarger Admonishment for his review. Deputy Rigby read and initialed all three of the original forms. The purpose of this interview was to ask additional questions and/or clarify statements made in previous interviews.

I asked Deputy Rigby if he was able to carry on a conversation with inmate Herrera. Deputy Rigby said he was only able to ask if he was on parole or probation but he could not conduct the full interview because he was coming down off drugs. I asked if Deputy Santo came over and spoke with Herrera and he told me he did not recall this. I asked if it was possible that Deputy Santo talked to him about his status on the street and him agreeing to have the band put on somewhere else. Deputy Rigby did not recall this conversation and did not feel inmate Herrera was coherent enough to make these statements. **(Investigative note: Deputy Santo stated in his interview that he spoke with inmate Herrera and Herrera explained he was active on the street and did not want to be a PC inmate. Deputy Santo also said Herrera agreed to have his band put on in a separate location).**

I asked Deputy Rigby if he truly believed they communicated to Sgt. Castro that the inmate's injury was a result of their control holds and he said yes, he felt it was communicated clearly. I asked him if he believed Sgt. Castro understood exactly what took place, meaning the inmate was injured as a result of their control holds and he said he believed he did. I asked who communicated this information and he told me Deputy Santo did, but he was present while Deputy Santo briefed Sgt. Castro and heard the information that was being relayed to him. He said this conversation took place in the briefing room.

I asked him while they were briefing Sgt. Castro did they tell him about the inmate attempting to strike Deputy Copeland. He said they did not and the first time he had heard about the inmate attempting to strike Deputy Copeland was when I first interviewed him. He told me was completely unaware that the inmate had tried to assault Deputy Copeland. I asked him if he did not know about the attempted strike, then why did he think he was writing a 148 report. He said he thought it was because the inmate was resisting them by stiffening his arm and not letting them put handcuffs on him.

I then asked Deputy Rigby again who told him to write the 148 report. He told me he was told by Deputy Santo to write the 148 report and he believed this direction came from Sgt. Castro. I asked him if he directly heard Sgt. Castro tell them to write this report and he told me he did not recall directly hearing it from Sgt. Castro. He said he believed Deputy Santo told him to write the report but thought it was after he spoke with Sgt. Castro. I asked him if he and Deputy Santo and Copeland joked about them having to write a 148 report and he laughed and said they did, they though it was a "whino" charge. They all felt it should have just been a Use of Force report but they were writing what they were told to by the sergeant. At no time did they feel they needed to attach a criminal charge to justify the incident.

I asked Deputy Rigby if he, Santo and Copeland ever "down played" the incident and he said they did not. I asked him if he felt Sgt. Castro did not know what he was doing when giving them direction and he told me, Sgt. Castro was a newer sergeant and he (Deputy Rigby) did not normally work on his shift. Deputy Rigby then paused and said "I didn't want to tell the sergeant that he didn't know what he was doing."

End of interview 0914 hours

Second Interview of Principal Sergeant Mark Castro - October 24, 2018/ 1600 hours
Representative John Kristofferson /Second Interviewer – Sergeant Mike Few

I conducted a second interview with Sgt. Castro in the Internal Affairs Office. Prior to conducting the interview, I provided him with the originally signed Confidentiality Directive, Miranda Advisement and the Lybarger Admonishment for his review. Sgt. Castro read and initialed all three of the original forms. The purpose of this interview was to ask additional questions and/or clarify statements made in previous interviews.

I informed Sgt. Castro that I was still concerned about whether he directed the deputies to write a crime report, charging the inmate with PC 148. I asked him if at any time he had a conversation with Deputy Santo about the inmate swinging at Deputy Copeland and directing them to write a crime report. Sgt. Castro re-affirmed that he did not direct the deputies to write a crime report and that Deputy Santo turned in a crime report with a 148 charge on his own, with no direction from him. I made reference to statements made by Deputy Santo, such as him reviewing the report, pondering it and telling Deputy Santo to add a 148 charge. Sgt. Castro said those actions or words never happened and at no time did he discuss a 148 charge with any of the deputies. Sgt. Castro said the 148 report was generated on his (Deputy Santo's) own with no direction from him at any time. **(Investigative note: Deputy Santo stated in his interview he was directed to write a crime report by Sgt. Castro although he (Deputy Santo) did not agree with the charge.)**

End of interview 1611 hours

Included for Review

- Initial Action
- Investigative Summary
- Initiating Memos
- Use of Force Report
- Watch List
- CD of incident/inmate interview
- CD of Internal Affairs Interview

OCSD DEPARTMENT POLICIES

Use of Force

300.1 PURPOSE AND SCOPE

This policy recognizes that the use of force by law enforcement requires constant evaluation. Any use of force is a serious responsibility. The purpose of this policy is to provide deputies of this department with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each deputy is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

Revised: June 21, 2016

300.1.1 PHILOSOPHY

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Deputies are involved on a daily basis in numerous and varied human encounters and when warranted, may use force in carrying out their duties. Deputies must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to deputies overcoming resistance while engaged in the performance of their duties. The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting deputies with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

The use of force is based on the "Objectively Reasonable" standard as stated in U.S. Supreme Court case Graham vs. Connor (1989). This is the standard considered to be the benchmark across America. It is contemporary, reflecting the most current judicial wisdom and it mirrors the standard prescribed by the Commission on Peace Officer Standards and Training (POST). The appropriate application of this standard requires that all factors surrounding a particular event be considered. This is true when determining whether to use force, as well as writing the requisite reports to document an event where force was used and in the supervisory review of the same event to determine the appropriateness of the action.

300.2 POLICY

It is the policy of this department that deputies shall use only that amount of force that appears objectively reasonable, given the facts and circumstances perceived by the deputy at the time of the event, to effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact the sheriff's deputies are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is objectively reasonable in a particular situation.

Given that no policy can realistically predict every possible situation a deputy might encounter in the field, it is recognized that each deputy must be entrusted with well reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every

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law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires a deputy to actually sustain physical injury before applying reasonable force. Law enforcement personnel shall use no more force than is objectively reasonable to accomplish lawful objectives. The use of any force to accomplish unlawful objectives is prohibited. The Department will not tolerate excessive and/or punitive force.

300.2.1 USE OF REASONABLE FORCE TO EFFECT AN ARREST

Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance (Penal Code § 835(a)).

300.2.2 DEFINITIONS

Use of Force:

A use of force is defined as any incident in which a Department member, either on or off duty, while performing a law enforcement function, overcomes resistance through the application of physical contact or any other force option.

This does not include the use of a firm grip control while performing routine functions such as searching, handcuffing or escorting. It also does not include reasonable intervention necessitated by the physical incapacity of the subject (e.g., lifting an intoxicated or disabled person). However, personnel shall make appropriate notifications in any instance that results in injury, the appearance of injury or complaint of pain.

Deadly and Non-Deadly Force:

Deadly force is that which creates a substantial risk of serious physical injury or death. Non-deadly force is any other physical force.

Objectively Reasonable Force:

Force that is proportionate to the threat presented by, or the need to lawfully control, a subject in a particular moment, as the threat or need would be perceived in that moment, and without benefit of hindsight. Force is not objectively reasonable if under the circumstances and in the relevant moment, it would be clear to a reasonable officer that lesser force would likely lead to safe control.

Serious Physical Injury:

"Serious physical injury" means physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

Physical Force:

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Striking, holding, pulling, pushing, throwing, or exerting strength against another person.

300.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether or not to apply any level of force and evaluating whether a deputy has used reasonable force, a number of factors should be taken into consideration.

These factors include, but are not limited to:

(a) The conduct of the individual being confronted (as reasonably perceived by the deputy at the time).

(b) Deputy/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of deputies vs. subjects).

(c) Influence of drugs/alcohol (mental capacity).

(d) Proximity of weapons.

(e) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the deputy under the circumstances).

(f) Seriousness of the suspected offense or reason for contact with the individual.

(g) Training and experience of the deputy.

(h) Potential for injury to citizens, deputies and suspects.

(i) Risk of escape.

(j) Other exigent circumstances.

It is recognized that deputies are expected to make split-second decisions and that the amount of a deputy's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each deputy is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

300.3.1 NON-DEADLY FORCE APPLICATIONS

Each deputy is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of deputies and the public. Non-deadly force applications may include but are not limited to control holds/take downs, chemical agents, Electronic Control Weapon described in Policy Manual § 306 and 309 less lethal, baton, and personal body weapons.

300.3.2 VOLUNTARY COMPLIANCE

Voluntary compliance is the preferred means of achieving resolution to potential use of force encounters. When practicable, deputies should ask for and allow reasonable time for compliance.

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