



**Office of Inspector General
County of Los Angeles**

**Los Angeles County Sheriff's
Department Safety of Firearms Policy**

October 2019

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Introduction

On December 9, 2016, a deputy sheriff attended the Los Angeles County Sheriff's Department Lancaster Station Holiday Party at the University of Antelope Valley Grand Ballroom. The party included dinner, a disc jockey and alcoholic beverages. The deputy was carrying his recently purchased Ruger LCR .357 revolver with him to the party. He had never fired this weapon nor received training with this weapon. He also had not been certified with the weapon by the Department.¹ During the course of the evening, the deputy ate dinner and consumed several alcoholic beverages. He stated that he drank a shot of Fireball whiskey and three beers over the course of four hours and acknowledged that he had anticipated drinking at the party.

Although a witness stated she saw him drinking at the party and believed he was intoxicated, the deputy stated he did not feel drunk. Between 10:00 p.m. and 10:30 p.m., the deputy went to the restroom. While he was using the urinal, he retrieved his revolver from his right front pocket with his right hand. As he was inspecting the revolver, he began manipulating the cylinder release with his right hand and unintentionally discharged one round from the weapon. The expended bullet went through the north wall of the men's restroom and exited the adjoining wall of the women's restroom where later a witness found the expended bullet on the floor. Fortunately, no one was hurt.

After an administrative investigation the deputy was charged with a violation of the Department's Safety of Firearms policy under Manual of Policy and Procedure (MPP) 3-01/025.45. The charges against him were founded. He was suspended for 30 days.

Current LASD policy provides for deputies to make individual determinations of how much alcohol impairs their judgment and ability to operate a firearm while consuming alcohol. Having reviewed 81 alcohol-related firearms policy violations in the last eight years, the OIG believes the policy on off-duty consumption of alcohol while armed could be improved with a resultant increase in safety for deputies and the public.

On November 26, 2018, after review of this report, the Department proposed a revised Safety of Firearms policy. (See attachment 1).

¹MPP 3-03/210.05 states: "... All sworn members below the rank of Undersheriff who desire to carry a Department authorized revolver or semi-automatic pistol on-duty, off-duty, or for back-up other than the handgun issued them by the Department, must attend and satisfactorily complete an instructional and qualification course conducted by the Weapons Training Staff for that specific class of handgun, prior to carrying that handgun.

Due to a change in the administration of the Department, the proposed revised Safety of Firearms policy was never ratified. The current administration responded favorably to proposed revisions (see attachment 2).

Current LASD Firearm Safety Policy

The current LASD Safety of Firearms policy has been in effect since August 9, 2010. Prior to August of 2010 there was no definable standard for what constituted being intoxicated in the Safety of Firearms policy. The discussion of imposing a .08 Blood Alcohol Content (BAC) standard began with a particularly egregious case in which an off-duty deputy accidentally shot his cousin while manipulating his firearm in 2008. This occurred on New Year's Eve after some heavy drinking. After this incident a task force was created to address the issue of the consumption of alcohol while carrying a firearm. The Safety of Firearms policy was written to address the problem. The policy created some controversy within the Department, but after two years the policy as stated below was implemented. At the time it was considered unprecedented in law enforcement.

Manual of Policy and Procedures 3-01/025.45 Safety of Firearms states:

"Sworn employees assume a significant responsibility in protecting and serving the public. As a result, they enjoy a considerable level of public trust. Consequently, high standards are placed upon their conduct. These high standards extend to both on and off-duty conduct. This is particularly applicable when the off-duty conduct involves the consumption of alcohol. In order to remain beneficiaries of the public trust, we must balance the rights of our sworn employees with the responsibility to maintain the highest standards of professional and personal conduct.

Sworn employees and Security officers carrying or handling any firearm while on or off-duty shall not consume any intoxicating substance to the point where the employee is unable to or does not exercise reasonable care and/or control of the firearm.

A violation of this section shall be determined upon the totality of the circumstances. It shall be presumed that an employee who has a .08 percent or more by weight of alcohol in his or her blood is unable to exercise reasonable care and/or control of a firearm. However, the fact that the employee acted reasonably and without negligence may rebut the presumption."

Blood Alcohol Content Levels in Other LASD Policies

The .08 BAC level standard of the Safety of Firearms policy is consistent with the driving under the influence laws of the State of California. Presumably that is where the .08 standard for the Safety of Firearms provision originated. The OIG is not aware of specific research that the LASD conducted or examined to determine if firearms safety deteriorates from alcohol consumption at the same rate as the ability to safely operate a motor vehicle. However, the National Transportation Safety Board has determined that driving performance has been affected with a BAC as low as .01.² In fact due to this research, the NTSB has been advocating for the last five years for a .05 BAC standard for drivers. Fine motor skills are required both for driving and for safely handling firearms. Decision-making processes are also impaired by the consumption of alcohol.

In 2016, the LASD revised two important policies regarding drinking while on-duty and drinking while driving a county vehicle, setting the BAC level to .02.³ Prior to these revisions, the policy was void of any stated BAC level. These revisions are commendable as they demonstrate the Department's understanding of the dangers of being under the influence of alcohol while at work or driving. However, it is inconsistent for LASD to have a BAC of .02 for its employees while working or while operating county vehicles but have a significantly higher allowable BAC level of .08 while carrying a firearm off-duty. We encourage the Department to apply the same principles and standards to the Safety of Firearms policy by setting the allowable BAC to no greater than .02, thereby sending a clear message both to Department members and the public that consuming alcohol while carrying a firearm is inherently dangerous and unacceptable.

Rebuttable Presumption

Currently, the Safety of Firearms policy allows the .08 BAC presumption to be rebutted. This undermines the intent of the policy. If a deputy is at a .08 BAC or higher and is therefore in violation of the Safety of Firearms policy he or she can

² National Transportation Safety Board, Safety Report, Reaching Zero: Actions to eliminate Alcohol Impaired Driving May 2013.

³ Manual of Policy and Procedure section 3-01/030.40, Use of Alcohol December 2016 revision states: "A Department member shall not drink or be under the influence of any kind of alcoholic beverage when on duty and/or in Department uniform. No member shall report for duty or be on duty while under the influence of alcohol, or be unfit for duty because of its use. Members will be considered under the influence of alcohol if they have a blood alcohol content of .02 or higher in their system." Manual of Policy and Procedure section, 3-01/090.10 Operation of Vehicles December 2016 revision states: "Members, whether on duty or off, shall not operate a county vehicle while under the influence of alcohol. Members will be considered under the influence of alcohol if they have a blood alcohol content of .02 or higher in their system."

overcome the presumption by showing that he or she can still safely possess and control a firearm. If such a showing is allowed the .08 BAC standard is meaningless. The rebuttable presumption portion of the current policy gives a deputy, who may have consumed more than enough alcohol to be legally prohibited from operating a motor vehicle, the discretion to determine whether or not he or she is acting reasonably regarding the use of a firearm. If an individual is too impaired to legally drive it is fair to assume their decisions about carrying or using a firearm are likewise diminished.

Off-duty v. On-duty

While the Department cannot dictate how deputies choose to behave and spend their time off-duty, it can set policy for the privileges and powers bestowed upon them because of their employment with LASD. Privileges like carrying a firearm off-duty and powers like the power to arrest. Attempting to dictate elements of a Department member's personal life will always be a delicate balance. Yet, that must be balanced with the Department's desire that deputies responsibly carry weapons while off-duty. While deputies are not mandated to carry weapons off-duty, there are many MPP provisions which dictate which firearms a deputy can carry while off-duty.⁴

Penal Code section 830.1(a) gives specified law enforcement officers peace officer authority anywhere in the state to arrest as to a "public offense committed or which there is probable cause to believe has been committed in his presence and respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense." The Department's MPP 3-01/050.30 "Off - Duty Incidents" states "Off-duty police Action: Deputy personnel, although technically off-duty, shall take action as deemed appropriate on any police matter coming to their attention. Appropriate action, depending on the circumstances, may require only accurate observation and becoming an effective witness or informant."

Because the MPP states that officers "shall take action," off-duty deputies are required to take police action in certain situations. What those actions are depends on the circumstances of the incident. As far back as 1992 the Department recognized the perils of "off-duty incidents." In a Field Operations Support Services (FOSS) newsletter entitled "Off Duty Survival" a number of issues were examined regarding getting actively involved in an "off-duty incident." This newsletter detailed seven factors to consider in determining whether to become actively involved in protecting the public while off-duty. The newsletter also cautioned that "... a number of off-duty incidents can be attributed to deputies putting themselves

⁴ See MPP 3-03/210.05.

in the wrong place and the wrong time” while “other off-duty incidents are due to the impaired judgement caused by alcohol intoxication.”⁵

If the purpose of carrying a weapon off-duty is to have the option to become “actively involved in an off-duty incident,” then the deputy should make the decision not to drink while carrying a weapon. How effective would an intoxicated deputy be in such a situation? If a deputy wants to consume alcohol, he or she should not carry a firearm. A lower BAC standard does not prevent deputies from drinking while off-duty. It prevents them from carrying a weapon and potentially making dangerous and costly errors in judgment due to alcohol consumption.

LASD Case Studies

A PRMS search revealed 67 cases in the last eight years with violations of “Safety of Firearms” policy where alcohol was involved. A PRMS search using key words “alcohol” and “firearms” revealed an additional 14 cases that were technically violations of Safety of Firearms policy but charged under different MPP sections. That amounts to 81 cases involving alcohol and firearms violations. These cases vary in their factual scenario, but in all cases a deputy was under the influence with a firearm accessible. Below are brief synopses of some of the more egregious cases.

Case One

In October of 2015, a group of 23 off-duty LASD personnel went camping. The campers brought a variety of firearms and participated in target practice. The deputy in question brought a shotgun and a Smith and Wesson M&P 9mm handgun. After firing what he thought was the last round from the handgun, the slide locked to the rear. The deputy thought the gun was no longer loaded. He placed the gun on a table. He proceeded to eat dinner and socialize. Most of the campers drank alcoholic beverages. He consumed around 9 beers and three mixed drinks in a span of 7 to 8 hours. Sometime between 1:00 a.m. and 2:00 a.m. he retrieved the handgun and began to clean it. At some point the firearm discharged and another deputy was struck in the right ankle area. This deputy received a 25 day suspension.

Case Two

On October 13, 2013, an off-duty deputy was the victim of “doorbell ditch” at the hands of neighborhood children. After the prank the deputy waited in his car for the

⁵ LASD Field Operations Support Services Newsletter December 2, 1992.

children to return. When they did he confronted them and chased them away. Some of the older teenagers in the neighborhood stopped running and took combative stances towards him. The deputy drew a firearm and fired a warning shot in the air. The kids ran. He located one of the children, detained him, and called the Sheriff's Department. When deputies arrived they saw the deputy with a beer in his hand. Inside his vehicle they found his department issued firearm and several open alcoholic beverage containers. The deputy retired after the incident and the case was inactivated.

Case Three

In December, 2010, an off-duty deputy was at home watching television and drinking wine. He heard a banging on the door. He went to the door to ask who was there. He was armed with a revolver. He cocked the weapon and exited his residence but he did not see anyone. As he was turning around he attempted to de-cock the weapon and accidentally discharged one round from the weapon into the ground. He told his supervisors that while he was waiting for Internal Affairs investigators to arrive he drank three to four more glasses of wine. This case was deemed unresolved.

Case Four

In May, 2016, an off-duty deputy drove an LASD vehicle to the 2016 Peace Officer's Memorial in Sacramento. At 1:00 a.m. the deputy left a bar in downtown Sacramento. While intoxicated he entered a car belonging to persons unknown to him. Upon entering the car he stated to the person in the driver's seat: "Drive, I ain't fucking around. I've gotta go." The owner of the car noticed that the deputy had a gun in his hand. An altercation occurred when the deputy would not exit the car. Witnesses stated that during the struggle the deputy was trying to pull the trigger of the gun but could not. During the struggle the owner of the car was able to disarm him. The deputy then ran off and passed out in the bushes. The deputy was discharged.

Case Five

On May 25, 2013, at 2:00 a.m., Downey Police Department officers were dispatched in response to a possible driving under the influence incident. The suspect, who had fallen asleep while driving his vehicle, was reported to be stopped in the middle of the roadway. When Downey Police arrived they found the car had collided with a utility pole. The engine was still running and the suspect, a deputy sheriff, was sitting in the driver's seat. He was asleep and non-responsive with his foot on the brake pedal and the transmission in drive. The vehicle's doors were

locked but the officer could see a handgun protruding from the front pocket of the deputy's pants. For approximately one hour officers made announcement over the public address system. They were reluctant to approach the non-responsive deputy for fear of startling him and causing an officer involved shooting. LASD deputies from a nearby station arrived and formed a tactical plan to remove him from the car. Using a spare key, deputies entered the vehicle and disarmed him. He was taken to the hospital where he provided a PAS breath sample which was analyzed at .281%. The suspect deputy was discharged.

Case Six

On March 2, 2012, at approximately 10:45 p.m. an off-duty deputy arrived at a nightclub in downtown Los Angeles. He parked his car near the club and locked his weapon in the glove box. He stayed at the club for three to four hours, drinking a variety of alcoholic beverages. He later admitted he was extremely intoxicated when he left at approximately 2:00 a.m. to 3:00 a.m. When he got home he reported his firearm stolen. In that report, he told investigators that he drove home from the location at 3:00 a.m. He later changed his story stating he said he could not remember anything until 8:00 a.m. when he awoke in his car at the club's location. The doorman at the Club told investigators he had seen the deputy sitting alongside a building with three men around him. He thought a fight was going to start so he approached the deputy who appeared to be intoxicated with vomit nearby. Because he believed the deputy could not take care of himself he intervened and the other men left. As he tried to help the deputy back to the car, he noticed the driver's side door of the deputy's vehicle was open, the key was in the ignition and the engine was running. As he placed the deputy in the back seat he saw (and took possession of) the deputy's weapon and identification card. He left the keys in the car and when he later came out to check on the deputy both the deputy and the car were gone. The deputy had a prior DUI and had been counselled regarding his drinking. The deputy's unit commander testified at his civil service hearing that during briefing sessions he has told deputies that their weapons should never be with them if they drink irresponsibly. The deputy was terminated.

Incidents of Firearm and Alcohol Use Nationwide

Ohio Police Officer

In 2017, an intoxicated off-duty officer in Ohio dropped her gun in a movie theatre. The theatre had to be evacuated. The officer was prosecuted and pleaded no

contest to using a weapon while intoxicated and inducing panic. She was sentenced to five days in jail and 55 days house arrest.⁶

Newark Police Officer

In 2016, an off-duty New Jersey police officer was involved in a fight at a bar after a night of drinking. The incident ended with the officer shooting and killing a patron of the bar.⁷

Baltimore Police Officer

In 2010, in Baltimore, an off-duty officer left a bar at 1:30 a.m. and saw what he mistakenly thought was a man attacking a woman. He shot an unarmed Marine veteran 12 times resulting in a voluntary manslaughter conviction charge against the off-duty officer.⁸

New York City Police Officer

In 2006, an off-duty NYPD officer drew his sidearm to fend off a perceived attacker. The officer was intoxicated. Other officers responded to a man with a gun call and eventually shot and killed the armed and intoxicated off-duty officer after ordering him to drop his weapon.⁹

Other Law Enforcement Agency's Policies on Alcohol and Firearms

Many law enforcement agencies around the country have specific and restrictive policies regarding consuming alcohol while possessing a firearm. Some have zero tolerance policies. Law enforcement agencies across the country have examined the problem of off-duty officers carrying weapons while drinking and concluded that low BAC standards are appropriate to combat the problems that arise in these situations. Discussed below are six examples of stringent and creative policies enacted to prevent the inevitable tragedies that occur when law enforcement officers consume alcohol while armed with firearms.

⁶ Associated Press, *Off-duty Officer Who Dropped Gun in Movie Theater Gets Jail Time*, May 15, 2017.

⁷ Patch NJ.Com, *Friends of Man Killed by Off-duty Cop: Why Did Officer Bring His Gun Into a Bar?*, May 13, 2016.

⁸ The Baltimore Sun, *Fatal Shooting Raises Questions About Off-duty Officers Carrying Weapons While Drinking*, June 5, 2010.

⁹ The New York Times, *In Police Rules, Weapons and Drinking Should Not Mix*, January 30, 2006.

Albuquerque Police Department

The Albuquerque Police Department has a zero tolerance policy for drinking while armed. General Order 1-1 (J)(5) states "Personnel will not use intoxicating beverages while off-duty if carrying a firearm." There is no rebuttable presumption. There are no words subject to interpretation. Comparing section 5 with section 4 illustrates the rigid zero tolerance as section 4 states: "Personnel will not use intoxicating beverages while off-duty *if* such use renders them unable to report for their next scheduled tour of duty or *if* the use would bring discredit to the department (emphasis added)."

San Francisco Police Department

The San Francisco Police Department General Order on Alcohol Consumption by Members states: "A member, while armed and carrying a weapon, shall not consume alcoholic beverages or be impaired." The General Order defines impairment as: "Consumption of alcohol that results in either: (a) The member's mental and/or physical state of being is altered so that he or she is impaired in a way that diminishes the member's ability to perform the duties of a sworn officer, or non-sworn employee, as prescribed by Department policies and procedures, or (b) The member under investigation has tested .015 or higher blood alcohol level."

Minneapolis Police Department

The Minneapolis Police Department's Professional Code of Conduct states: "Off-duty employees shall not carry any firearms or ammunition while under the influence of alcohol or any controlled substance. . . A reading of .02 blood/alcohol concentration is considered under the influence of alcohol."

Philadelphia Police Department

The Philadelphia Police Department Directive 6.5-15 deals with officer intoxication. When an officer is on-duty or has taken some official police action while off-duty and is suspected of being intoxicated, certain guidelines will be followed. The guidelines include protocol as to testing procedures and delegation of responsibility for investigation.

The Directive goes on to state "[i]f a breathalyzer examination reveals that a member on-duty, reporting on or off-duty [sic] has any blood alcohol content (BAC) level, or a member off-duty, who has taken some official police action, has imbibed a sufficient amount of alcohol such that the member is rendered impaired or incapable of safely taking police action ..." further actions are mandated. For

purposes of this section "impaired or incapable of safely taking police action" shall be inferred after a member had imbibed a sufficient amount of alcohol such that the alcohol concentration in the member's breath is .04% or greater within two hours after the member has taken official police action. The phrase "official police action" is not defined in the policy. Presumably, it would include such actions as making arrests and protecting the public. Both of which could involve using a firearm.

Cincinnati Police Department

Cincinnati Police Department (CPD) Policy section 15.110 states that substance abuse by an off-duty member acting in the capacity of or with the authority as a police officer is subject to testing. A completed breath test result of .04 BAC to .079 BAC will be considered a positive result and trigger further investigation. A result of .08 or higher will result in the officer being relieved of their badge and firearm. The phrase "acting in the capacity of or with the authority as a police officer" presumably means such actions as making arrests and protecting the public. Both of which could involve using a firearm.

CPD Policy Section 12.025 (G) addresses carrying a firearm off-duty. Subsection (1) of the policy states carrying a firearm is optional. Subsection (4) of the policy states Ohio Revised Code (ORC) 2923.15 prohibits carrying firearms while under the influence of alcohol or any drug of abuse. Law enforcement officers are not exempt from the prohibition.¹⁰

Subsection (5) of the Policy states that ORC Section 2923.12.1, illegal possession of a firearm in Liquor Permit Premises, applies to off-duty officers unless they are acting in the scope of their duties as a police officer.¹¹

¹⁰ Ohio Revised code Section 2923.15 - Using Weapons while intoxicated

(A) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(B) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

1974 Committee Comment to H 511: This section enacts a new prohibition against carrying or using any firearm or dangerous ordnance while intoxicated. The rationale for the offense is that carrying or using firearms without having complete control of one's faculties presents a danger as great as driving while intoxicated. . . There is no exception to the prohibition - law enforcement officers must all be sober at the time they carry or use firearms.

¹¹ Ohio revised code section 2923.121 Illegal possession of a firearm in liquor permit premises.

(A) No person shall possess a firearm in any room in which any person is consuming beer or intoxicating liquor in a premises for which a D permit has been issued under Chapter 4303 of the Revised Code or in an open air arena for which a permit of that nature has been issued.

New York City Police Department

The New York Police Department Order 52 mandates alcohol testing for every police officer involved in an on or off-duty firearms discharge which results in injury to or death of a person. The Order sets a threshold of .08 BAC for further proceedings to take place. This order was challenged in Court by the Patrolmen's Benevolent Association of the City of New York, Inc. The order survived court scrutiny. While NYPD has a .08 BAC level, it also mandates testing for every on or off-duty firearm discharge where injury or death results.

Conclusion

The goal of the Safety of Firearms provision of the MPP should be to provide clear policy that deputies are not to carry their firearms while consuming alcohol or planning to consume alcohol. The current .08 BAC standard tells deputies that consuming some alcoholic beverages while armed is within policy. The policy should clearly state the Department's intention that deputies are not to drink while armed. The current Safety of Firearms policy attempts to address the issue. However, the Office of the Inspector General is concerned with the language of the current policy both because the .08 limitation is not stringent enough and because a deputy is able to challenge the presumption that he or she is impaired. Below are several recommendations which, if enacted, could advance the Safety of Firearms policy and prevent dangerous and potentially tragic incidents.

OIG Recommendations

Recommendation No. 1: Blood alcohol content standard in Safety of Firearms Policy should be .02

The standard of .08 blood alcohol content (BAC) level stated in the current Safety of Firearms policy is too high. While the OIG commends the Department for having a written policy on this issue with a specified BAC standard (many law enforcements agencies do not) the policy would be more effective with a BAC limit of .02. The .02 BAC level standard is low enough that there should be no doubts about what is within policy yet is not a zero tolerance policy. Further, a BAC level of .02 is consistent with other LASD policies "defining under the influence." Inconsistent policies cause confusion. By directing deputies not to consume enough alcohol to rise to a .02 BAC while armed, the department gives deputies a simple

standard to apply rather than a complex one, and ensures the decision will be made while sober.

Recommendation No. 2: Policy should include prohibition of carrying firearms while consuming alcohol in establishments that serve alcohol

A policy similar to the above referenced Cincinnati Police Department's prohibition against police officers drinking in bars while armed should be added to the Safety of Firearms Policy.

Recommendation No. 3: The rebuttable presumption language of the policy should be removed

The rebuttable presumption language in the policy undermines the intent of the policy and has the possibility of creating confusion in interpreting the policy. As stated above the Safety of Firearms policy has a presumption that if the BAC level is over .08, it is presumed that the deputy is unable to exercise reasonable control over the firearm. That .08 presumption can be rebutted if "the employee acted reasonably and without negligence." This section of the policy should be amended. Any unusual circumstances can be dealt with using the range of discipline or specific exceptions. Instead, the .02 standard would instruct deputies not to consume significant amounts of alcohol while armed, making the issue of whether they acted "reasonably" or "without negligence" irrelevant.

Recommendation No. 4: Policy should include Emergency Exception

There should be an "emergency exception" to the Policy which allows a deputy who has been consuming alcohol to arm him or herself in emergency situations which require quick action to protect human life. However, past administrative cases show this is a rare occurrence.

Recommendation No. 5: Add language similar to MPP 3-01/090.10 Operations of Vehicles

MPP section 3-01/090.10 states that "... if member has an odor of alcoholic beverage or there is a reasonable suspicion to believe member is under the influence of alcohol the unit commander or higher shall order test of the member. If the member refuses a direct order to be tested the member shall be subject to discipline." This language should be added to the MPP section Safety of Firearms.

Recommendation No. 6: Create a policy mandating alcohol testing for all off-duty accidental discharges

There have been instances where deputies have had accidental discharges of their firearms while off-duty either at home or in social settings. Because there is no policy requiring alcohol testing in accidental discharge scenarios, we are left to wonder if alcohol was a factor. We recommend the Department create a policy that requires unit commanders to order the deputy submit to an alcohol test in all off-duty accidental discharges.

ATTACHMENT 1

Proposed revisions by the Los Angeles County Sheriff's Department to the Safety of Firearms Policy

Dated 11/26/18

3-01/025.45 SAFETY OF FIREARMS

Sworn employees and Security Officers assume a significant responsibility in protecting and serving the public. As a result, they enjoy a considerable level of public trust. Consequently, high standards are placed upon their conduct. These high standards extend to both on and off-duty conduct. This is particularly applicable when the off-duty conduct involves the consumption of alcohol. In order to remain beneficiaries of the public trust, we must balance the rights of our sworn employees with the responsibility to maintain the highest standards of professional and personal conduct.

Whether on or off-duty, Sworn employees and Security Officers shall not carry, handle, or have a readily accessible firearm in their immediate presence while under the influence of alcohol. ~~carrying or handling any firearm while on or off-duty shall not consume any intoxicating substance to the point where the employee is unable to or does not exercise reasonable care and/or control of the firearm.~~ Employees will be considered under the influence of alcohol if they have a blood alcohol content of .02% or higher in their system. If a member has the odor of an alcoholic beverage on their breath or there is reasonable suspicion to believe the member is under the influence of alcohol, the unit commander or higher shall order a test of the member. If a member refuses a direct order to be tested, the member shall be subject to discipline for violating section 3-01/030.10, Obedience to Laws, Regulations, and Orders.

NOTE: For purposes of this section, intoxicating substance shall include alcoholic beverages, medication (both prescription and over-the-counter), and/or controlled substances. Firearms properly secured in the trunk of a vehicle or a locked compartment within a vehicle are not considered readily accessible.

It is not a violation of this section if the sworn employee or security officer is inside his or her own residence unless there is evidence of negligence. ~~A violation of this section shall be determined upon the totality of the circumstances. It shall be presumed that an employee who has a 0.08 percent or more by weight of alcohol in his or her blood is unable to exercise reasonable care and/or control of a firearm. However, the fact that the employee acted reasonably and without negligence may rebut the presumption.~~

Revised 08/09/10

Revised 11/26/18

ATTACHMENT 2

Letter to the Inspector from Los Angeles County Sheriff Alex Villanueva dated April 12, 2019



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



April 12, 2019

Rod Castro-Silva, Interim Inspector General
Los Angeles County Office of the Inspector General
312 South Hill Street, 3rd Floor
Los Angeles, California 90013-1109

Dear Mr. Castro-Silva:

SAFETY OF FIREARMS POLICY REVISIONS

Thank you for the opportunity to preview your report entitled "Los Angeles County Sheriff's Department Safety of Firearms Policy." In our continued effort to maintain public trust, it is my expectation that Los Angeles County Sheriff's Department personnel always practice safe firearms handling. This becomes even more critical when personnel choose to be armed while off-duty.

I acknowledge that in our past, there have been off-duty incidents in which the consumption of alcohol by deputy personnel compromised their ability to safely handle their firearms, endangering public trust that is so critical. I have reviewed your report and our current Safety of Firearms policy, and agree that a policy update is in order.

The Department has initiated a Safety of Firearms policy revision that will take in to consideration the recommendations made by your office. In keeping with our partnership with the Office of Inspector General, we will gladly share all forthcoming draft versions of the policy as it proceeds through the revision process.

Should you have any questions, please contact Commander Scott Gage, Professional Standards and Training Division, at (323) 890-5056.

Sincerely,

ALEX VILLANUEVA
SHERIFF

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —