06-002 Handling of Lewd Conduct Complaints

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

HANDLING OF LEWD CONDUCT COMPLAINTS

PURPOSE

This Field Operations Directive provides supplemental guidance to ensure fair and consistent suppression, intervention, training, and education for the public and deputies in the prevention of lewd conduct, public sexual conduct and/or indecent exposure complaints. The prevention efforts outlined within this policy are the responsibility of the patrol unit commanders, and allow for prevention efforts to be tailored to the unique needs of an individual station area.

The Sheriff's Department's primary goal in responding to complaints of public sexual activity is not only to handle the specific incident, but more importantly, to prevent future and ongoing incidents from occurring. Each station should work with various affected parties and agencies, including local government, LASD Parks Bureau, parks and recreation authorities, business owners and community members, to make problem areas frequented for this type of activity, such as public malls, parks, restrooms, parking areas, rest stops and alleys, **less conducive** to these behaviors.

Station management should work with and encourage local businesses and landlords to take responsibility and ensure that their premises do not create a nuisance by encouraging or being conducive to acts of lewd conduct. Stations shall complete a comprehensive operational plan to document the nature of the complaints and detail the station's prevention, intervention and suppression efforts.

POLICY

The policy for the handling of lewd conduct includes the following components:

- The Department’s primary enforcement strategy is prevention. If we successfully prevent lewd conduct from occurring, we create a condition where there is no victim and no suspect. The preventative measures listed on the following pages of this directive offer some options for patrol station commanders.
- Where preventative efforts by a patrol station unit commander fail, we will not discriminate in our enforcement efforts on the basis of gender and/or sexual orientation.
- All coordinated enforcement efforts require the development of an “Operations Plan” and the approval of the concerned unit commander. Major Crimes Bureau has the responsibility for conducting undercover operations for the purpose of arresting lewd conduct violators. This provision does not restrict the actions of individual deputies responding to calls for service or in taking action in immediate response to unplanned observations.

PROCEDURES

The primary unit responsible for handling complaints of public sexual activity shall be the patrol station who has the responsibility over the area where the complaints are received. If a pattern of lewd conduct behavior emerges (i.e. continuous complaints), the station patrol commander is responsible for the development of a community- involved education, prevention, and suppression plan to help curb the conduct.

The following steps should be taken when addressing complaints of public sexual activity:

- The Unit Commander shall be notified and briefed of the situation. A detailed record of lewd conduct complaints can be accessed via the CAD system.
- The Unit Commander shall assign station personnel to assess the problem (Community Relations Deputies, Special Problem Units, COPS Team members, et cetera.) This assessment should review environmental issues, patrol levels, deployment options, and any other pertinent issues
- Assigned personnel should also contact and work with other affected and responsible parties, including local government officials, business owners, residents, appropriate community members, et cetera.
- An "Operations Plan" using the principles of education, prevention, and suppression should be drafted and reviewed by the Unit Commander.

The following preventative measures should be considered in the development of the Operations Plan, in making areas less conducive to lewd conduct activity:

- **Post Notices and/or Signs -** The posting of signs warning offenders that public sexual activity is a crime that can lead to arrest serves as a deterrent.
- **Improve Lighting -** Lewd behavior is rarely conducted in well-lit areas. Improved lighting reduces the perceived level of privacy. It increases the possibility of being seen or caught.
- **Cut Back Bushes and Trees -** Eliminating the physical cover of overgrown areas in parks or rest areas reduces the level of perceived privacy and can improve surveillance abilities.
- **Create the Illusion of Surveillance -** Installing video cameras (whether operable or not) and parking decoy patrol cars in the problem area should be considered.
- **Establish Highly Visible Patrols -** Uniformed deputies, station volunteers and foot patrol should be encouraged or assigned to make regular visible patrols through problem areas.
- **Shift Enforcement to Private Security -** Uniformed security employed by the problem location or surrounding businesses should be encouraged to conduct regular patrol checks.
- **Limit the Location’s Hours of Operation -** Problems in parks or restrooms can often be eliminated by simply locking the gates or restroom doors after closing hours.

As stated, Patrol Unit Commanders have the overall responsibility for the implementation of any operations plan designed to address the issue of lewd conduct in their station's jurisdiction. Following the execution of the operations plan, an after- action report shall be prepared to fully document and critique the impact and effectiveness of enforcement efforts. The report shall include a summary of the steps taken to mitigate the illicit activity along with an assessment of the results.

Upon review of the after-action report, if it is apparent that all station resources have been exhausted and the station’s actions have failed to alleviate the problem, the unit commander should contact Major Crimes Bureau and request the assistance and/or advice of their Vice Unit. In circumstances where special

enforcement is required, patrol station commanders are encouraged to consult Major Crimes Bureau.

Detective Division/Major Crimes Bureau may initiate lewd conduct operations/investigations in any station area based upon complaints or information received directly from the public, Department members, confidential informants, or other sources who commonly provide information on criminal conduct. Absent extenuating circumstances, prior notification from Major Crimes Bureau to the Unit Commander will accompany any lewd conduct operation/investigation in that station area.

LEGAL CONSIDERATIONS

In the case of *Pryor v. Municipal Court (25 Cal.3d 238)*, the California Supreme Court ruled that four factors must be present to establish a "Disorderly Conduct" violation of Penal Code section 647(a):

- A person *engages* in or solicits another person to engage in conduct that involves touching of the genitals, buttocks or female breasts.
- The *conduct* is for the purpose of either sexual arousal or gratification, or annoyance or offense to others.
- The *conduct takes place* in a public place or a place open to the public or exposed to public view.
- The person who *engages in* or solicits the conduct knows or should know that other people are present who may be offended.

In the case of *In re Chad Smith (7 Cal. 3d 362),* the California Supreme Court ruled that "Indecent Exposure" (314 PC) required that:

- The person intends to expose his or her genitals for purposes of sexual arousal or gratification.
- The person knows or should know that other people are present who may be offended.

The *Smith* case involved a defendant who was sunbathing in the nude on an isolated public beach. He was subsequently arrested and convicted of violation Penal Code section 314. In overturning the conviction, the State Supreme Court distinguished "nude" from "lewd." No evidence had been admitted showing that *Smith's* conduct had been lewd.

The same principle was also addressed by the California Court of Appeal, Second District in the case of *In re Dallas W. (85 Cal. App. 4th 937)*. This case involved a juvenile subject who "mooned" oncoming traffic and was subsequently convicted of violating Penal Code section 314. In overturning the conviction, the Appellate Court observed that the subject's purpose in "mooning" traffic was to offend. The purpose was not for "sexual arousal or gratification." Therefore, the elements of the offense were not present.

AFFECTED DIRECTIVES / PUBLICATIONS

Manual of Policy and Procedures, Section 2-05/090.00 - Adds responsibility for the conduct of lewd conduct undercover operations to Major Crimes Bureau.

Manual of Policy and Procedures, Section 4-22/015.00 - Adds supplemental policy for the handling of lewd conduct offenses.

REFERENCES

Field Operations Support Services Newsletter 04-23 *(Elements of 314 PC)* California State Supreme Court Decision, *Pryor v. Municipal Court (25 Cal.3d 238)* California State Supreme Court Decision, *In re Chad Merrill Smith (7 Cal. 3d 362)*

Court of Appeal of California, Second District Decision, *In re Dallas W. (85 Cal. App. 4th 937*)