

## UNIT ORDER #49 - GATES/JOHNSON SETTLEMENT AGREEMENT

### **Background:**

In 1991, the Los Angeles County Sheriff's Department (LASD) entered into a settlement agreement with the Association for Los Angeles Deputy Sheriffs (ALADS), as a result of an injunction entered against the Department in Johnson and Gates v. County of Los Angeles. The settlement agreement governs how we conduct administrative investigations when deputies are the subject of a criminal investigation for the same incident.

As of November 13, 2013, the settlement agreement is still in effect.

See the *Second Appellate District Appeal case B238141 (Los Angeles County Superior Court No. BC425156) Association for Los Angeles Deputy Sheriffs vs Leroy Baca et al.*, for the history of the litigation and settlement agreement.

### **Settlement Agreement Stipulations:**

When a deputy is concurrently the subject of a criminal investigation and an administrative investigation arising from the same incident, act, or omission, or has criminal charges pending from an incident, act, or omission which is also the subject of an administrative investigation, the Department shall not require or compel said deputy to submit to an interview in that administrative investigation, until one of the following occurs:

1. The LASD, or other law enforcement agency with jurisdiction over the criminal offense, determines that criminal charges will not be sought against said deputy. LASD's determination that criminal charges will not be sought against said deputy is irrevocable at the point said deputy is compelled to submit to administrative interrogation.
2. The prosecuting attorney's office rejects (declines to file) a criminal complaint against said deputy.
3. Said deputy is arraigned on the criminal charges.
4. Said deputy requests a continuance on the criminal charge(s).

### **Policy:**

IAB investigators shall comply with the settlement agreement in cases involving Subjects who are the rank of deputy. The settlement agreement does not apply to sworn personnel of other ranks or to non-sworn personnel. IAB investigators shall consult with their team lieutenant, IAB Captain, and/or the Advocacy Unit if they have any questions about this settlement agreement. They shall also consult with their team lieutenant, IAB captain, and/or the Advocacy Unit regarding how and when to proceed in the administrative investigation when the Subject is a sworn rank other than deputy, or is non-sworn.

### **Procedure:**

IAB investigators shall abide by the following for each criteria:

1. If criminal charges are not sought by the investigating law enforcement agency, then the investigator shall provide the Subject with the memo from the Internal Investigations Division commander, to the Subject's

chief indicating that the criminal case by the Internal Criminal Investigation Bureau is closed. If the criminal investigation was handled by another law enforcement agency, then the investigator shall verbally advise the Subject of the date that the criminal case was closed. The investigator shall document that date in the case file.

2. If the criminal case is rejected by the prosecuting attorney's office, then the investigator shall provide the Subject with a copy of the District Attorney (DA) reject form.

Note: For hit shootings, the investigator shall provide the Subject with a copy of the DA letter of opinion.

1. If the deputy is arraigned or if the deputy requests a continuance, then the investigator shall consult with his team lieutenant and/or the Advocacy Unit before interviewing the Subject and/or proceeding with the administrative investigation while the criminal case is still being adjudicated in the criminal arena. This will depend on the case and whether or not the incident is being investigated by the Sheriff's Department or another law enforcement agency.
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