23-001 - Senate Bill 2 Misconduct Allegation Reporting Tracking (SMART) System

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

Senate Bill 2 MISCONDUCT ALLEGATION REPORTING TRACKING

(SMART) SYSTEM

PURPOSE

The purpose of this Field Operations Directive (FOD) is to establish policy and procedures for reporting allegations of, or findings of any misconduct by Department personnel. This FOD also establishes policy and procedure for reporting allegations of "serious misconduct," by sworn Department personnel. The actions defined as "serious misconduct" for sworn Department personnel are described in Penal Code (PC) section 13510.8, and are reportable and governed by the California Commission on Peace Officer Standards and Training (POST) Regulation 1205, as mandated by Senate Bill 2 (SB 2).

BACKGROUND

SB 2 establishes a requirement that specifies California peace officers be certified by POST. It also establishes a decertification process by which a peace officer's certification may be suspended or revoked by POST due to "serious misconduct."

SB 2 also requires California law enforcement agencies that employ peace officers under 830.1 PC, to ensure they possess a current, valid certification or to secure a Proof of Eligibility (POE) from POST.

POLICY

The Department will report to POST, all allegations and findings against sworn personnel, who are alleged or found to have engaged in serious misconduct.

Additionally, for Department-wide consistency, all alleged misconduct **for ALL employees, shall be reported through use of the SMART system pursuant to this FOD.**

See Manual of Policy and Procedures section 3-01/030.10, Obedience to Laws, Regulations and Orders regarding reporting policy violations.

Misconduct by Any Employees

All incidents of alleged misconduct involving any employee, rising to the level of a formal supervisor inquiry; WCSCR (except commendations), use of force, shootings, claims, lawsuits, investigations (unit level or IAB handle), custody complaints involving LASD employees, and traffic collisions, shall require an entry into the Senate Bill 2 Misconduct Allegation Reporting Tracking (SMART) System by a supervisor, at the minimum rank of sergeant, or unit designee.

Serious Misconduct by Sworn Personnel

Nothing in this policy precludes supervisors from following established policy and procedures for receiving and documenting service complaints, and/or conducting unit-level inquiries and/or investigations regarding any misconduct. Refer to Manual of Policy and Procedures sections 3-04/010.00, Department Service Reviews and 3-04/010.05, Procedures for Department Service Reviews.

When any sworn member of this Department is involved in an incident of alleged serious misconduct as defined in Penal Code section 13510.8, the incident shall be reported by a supervisor, to the SB 2 Team, via the Senate Bill 2 Misconduct Allegation Reporting Tracking (SMART) System. Per POST Regulation 1205, serious misconduct is defined as follows:

- **Dishonesty** – Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct. For purposes of this subsection, in considering whether a suspension or revocation of certification is proper, the commission will consider the extent to which the dishonesty related to a material or significant fact in the context of the statement or omission alleged to be dishonest, and will also consider whether the dishonesty appears to have been done willfully or intentionally, with the intent to deceive;

- **Abuse of power** – Including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest. For purposes of this subsection, in considering whether a suspension or revocation of certification is proper, the commission will consider the extent to which the abuse of power was a knowing abuse of the power and authority of a public office;

- **Physical abuse** – Including, but not limited to, the excessive or unreasonable use of force;

- **Sexual Assault** – as described in subdivision (b) of Penal Code Section 832.7, and shall extend to acts committed amongst members of any law enforcement agency;

- **Demonstrating Bias** –Demonstrating bias on the basis of actual or perceived race, national origin, religion, gender identity or expression, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner. This paragraph does not limit an employee's rights under the First Amendment to the United States Constitution;

- **Acts that violate the law** – Acts that violate the law and are sufficiently egregious or repeated, as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the commission;

- **Participation in a law enforcement gang** – Participation in a law enforcement gang. For the purpose of this paragraph, a "law enforcement gang" means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group;

- **Failure to cooperate with an investigation** – Failure to cooperate with an investigation into potential police misconduct, including an investigation conducted pursuant to this chapter. For purposes of this paragraph the lawful exercise of rights granted under the United States Constitution, the California Constitution or any other law shall not be considered a failure to cooperate; and

- **Failure to intercede** - Failure to intercede when present and in observance of another officer using force that is clearly beyond that which is necessary as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

Additional Reportable Occurrences

Per Penal Code section 13510.9, any Department unit/bureau responsible for the control or processing of sworn personnel records, and/or disposition of investigations or discipline, shall ensure their respective supervisors report the following via the SMART System:

- The employment, appointment, termination, or separation from employment or appointment of a peace officer, including any involuntary termination, resignation, or retirement;

- Any complaint, charge, or allegation of conduct against a peace officer, or investigation into the conduct of a peace officer that could render the officer the subject of suspension or revocation pursuant to Penal Code section 13510.8;

- Findings or recommendations by civil oversight entities that could render the officer the subject of suspension or revocation pursuant to Penal Code section 13510.8;

- The final disposition of any Department investigation that determines a peace officer engaged in conduct that could render a peace officer subject to suspension or revocation pursuant to Penal Code section 13510.8; and/or

- Civil judgment or court finding against a peace officer based on conduct, or settlement of a claim; which could affect the officer's certification.

PROCEDURE

Within 3 days of knowledge of an allegation or findings of misconduct against any Department Personnel, supervisors shall report at minimum, preliminary information via the SMART System.

The preliminary information shall include the following:

- Involved employee information, including employee number, classification, unit of assignment, work status, and type of misconduct;
- Incident location;
- Complainant type;
- Administrative process type;
- Incident details; and
- A short narrative of the investigation or allegation.

Upon making a SMART System entry, a notification number will be issued, and shall be included on all associated reports and correspondence.

The SMART System will allow for updates to the status of a supervisor inquiry as updates become available. If new information of misconduct is discovered during an investigation, or should a new subject be added to an investigation, a separate additional entry shall be made.

No discretionary reporting option exists under this policy which allows supervisors to decide if personnel should be entered into the SMART System. If an allegation is presented or employee misconduct exists which meets the criteria as reportable in this policy, it shall be entered into the SMART System. If a supervisor is unsure whether an incident requires entry into the SMART system, the incident shall be brought to the attention of the SB 2 Team, which shall make the final decision. The SB 2 Team can be reached at [REDACTED TEXT]

SMART System Entry

Access to the SMART System can be found on the Department's SB 2 SharePoint site. Instructions for use of the SMART System are detailed in the SMART System User Guide, which can be found by following the link located in the reference section below.

Unit Commander Responsibility

Unit commanders or their designees are responsible for reconciling Watch Commander Service Comment Reports (WCSCR), to ensure all WCSCR reports containing information regarding allegations or participation in misconduct by personnel in their units, have been entered into the SMART System. Furthermore, supervisors have entry permissions to update the status or disposition of open supervisor

inquiries. No ad hoc or query capabilities are available to users.

Unit commanders are responsible to ensure a designee permanently assigned to their respective unit, attends, and completes the necessary SMART System train-the-trainer class taught by the SB 2 Team. The designee shall be responsible to train all existing and incoming supervisors on making the mandated entries to the SMART System.

Senate Bill 2 Team Responsibility

The following events shall be reported **by the SB 2 Team to POST** within **10** days of Department knowledge:

- The employment, appointment, termination or separation from employment or appointment, of a peace officer including any involuntary termination, resignation, or retirement;
- Any complaint, charge, or allegation of conduct against a peace officer, or investigation into the conduct of a peace officer which could render the officer the subject of suspension or revocation pursuant to Penal Code section 13510.8;
- Findings or recommendations by civil oversight entities which could render the officer the subject of suspension or revocation pursuant to Penal Code section 13510.8;
- The final disposition of any Department investigation which determines a peace officer engaged in conduct that could render a peace officer subject to suspension or revocation pursuant to Penal Code section 13510.8; and/or
- Civil judgment or court finding against a peace officer based on conduct, or settlement of a claim, which could potentially affect the officer's certification.

The initial reporting shall be entered into the POST Mark 43 Records Management System and updated on a 90-day basis or sooner, if feasible.

The SB 2 Team is also responsible for all aspects of the operation, maintenance, access, training, permissions, and help desk for the SMART System.

REFERENCES

State Law

Senate Bill 2

13510.8 PC

13510.85 PC

13510.9 PC

1029 GC

POST Regulation

POST Regulation 1205

Department Policy

MPP section 3-04/010.05 - Procedures for Department Service Reviews

MPP section 3-04/010.35 - Public Accessibility to Information About the Complaint Process

[REDACTED TEXT]

Department Companion Documents

[REDACTED TEXT]

[REDACTED TEXT]

[REDACTED TEXT]

Senate Bill 2 Frequently Asked Questions (FAQ Page)