Minutes
DSD Reform Implementation Team
3/30/2016, 3:00pm-5:00pm
Location: PAB Conference Room #604

Present:

- Stephanie O’Malley
- Shawn Smith
- Christopher M.A. Lujan
- Rick Stubbs
- William Thomas
- Scott Martinez (via phone)
- Division Chief Elias Diggins
- Rory Regan (via phone)
- Daelene Mix
- Wendy Shea
- Al LaCabe (via phone)
- Sheriff Patrick Firman

Agenda:
1. Approval of Minutes
2. Discuss draft Use of Force Policy
3. Implementation Status Update
4. Next Steps/Open Forum

Discussion:
The meeting opened with a review of the minutes from the team meeting that was held on March 21, 2016, which were approved by the team with one change.

Director Stephanie O’Malley then welcomed Rick Stubbs and Wendy Shea from the City Attorney’s Office and explained that a majority of the meeting will be dedicated toward discussing the draft Use of Force policy. Al LaCabe then explained that the genesis of the current draft of the Use of Force policy began with the work of the task forces in 2014 and informed by court decisions that have occurred in the recent past. Mr. LaCabe shared his belief that the draft Use of Force policy is in line with the best practices accepted around the country for such a policy. Rick Stubbs then detailed the changes that were incorporated into the latest draft Use of Force policy that is under review by the Reform Implementation Team. Christopher M.A. Lujan then asked whether a Deputy can be disciplined under the policy if the correct level of use of force is used but the wrong tactic is employed by the Deputy. Mr. LaCabe affirmed that such a situation could result in some type of discipline, however, the level of discipline is being contemplated as part of the revision to the discipline matrix. Mr. LaCabe then provided examples of past case law that served to guide this approach in developing the policy and explained that both the use of force and the tactic that is employed in a scenario should be considered upon review in accordance with the standard set forth by the policy. At Mr. Lujan’s request, Mr. Stubbs provided clarification as to the approved and disapproved uses of non-lethal devices defined in the draft policy; Mr. Lujan suggested that further consideration be considered to clarifying what is an approved or disapproved use of the OPNs. Sheriff Firman then requested that the policy section pertaining to the use of TASERs be revised and simplified to reduce confusion for Deputies, to which Mr. Mitchell agreed. Team members then discussed multiple scenarios that can occur in the jail environment, including how they would be evaluated under the new use of force policy and whether such a result was the intention of the policy. Team members noted and agreed to a needed change to the policy section defining when force other than “Lethal Force” may be used to mitigate the potential for confusion by Deputies. Mr. Lujan then asked
whether the “notes” contained in the policy were intended to be explanatory or provide additional rules under which a Deputy may be disciplined; Mr. Stubbs clarified that they are intended to be explanatory. Mr. Lujan expressed concern that, as currently written, the “notes” may serve other unintended purposes as a matter of law; Mr. Lujan also suggested that the policy be reorganized to better group related material across the entirety of the policy.

Al LaCabe asked what power a DSD Deputy has to make an arrest and whether any changes have been made to this authority; upon confirmation by Mr. Mitchell and Wendy Shea, Mr. LaCabe suggested that the draft Use of Force policy to be updated to reflect consideration for this authority. Ms. Shea also suggested that the associated training be updated to reflect this consideration.

Director O’Malley then requested consensus approval of the draft Use of Force policy with the noted suggestions and changes by present members to which there was no objection made. Mr. Lujan expressed some concern regarding the method by which staff will be trained and ensuring that they fully understand the policy. Director O’Malley indicated that she and others have been discussing the training and are placing focus on ensuring it adequately addresses this concern. The present members then agreed to postpone further agenda items until the next meeting.

**Action Items:**
1. Submit remaining implementation plans
2. 2016 In-Service Training Changes – May 1, 2016

**Next Meeting:** April 4, 2016, 3:00pm – 5:00pm
   PAB Room #604