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MEMORANDUM

To: Mike Schmidt
From: JR Ujifusa
cc: CDDA Don Rees and OSP Sgt. Nicole Watson

Date: November 14, 2023
Subject: MCSO internal investigation case review

This is my no complaint and memo regarding charging MCSO Deputies Gustavo Valdovinos, Mirzet Sacirovic and Jorge Troudt related to incidents within the Multnomah County Detention Center from 2018-2020. The investigation was conducted by Oregon State Police. The referred charges were Official Misconduct. The allegations are that the above-named deputies aided or facilitated assaults, “door popping¹” to allow Adults in Custody (AICs) to assault other AICs, provided contraband and access to electronic devices (computers and personal cell phones).

A brief summary, but in no way comprehensive², of the facts are as follows:

- Investigators with MCSO and PPB investigating unrelated crimes were given information from cooperating defendants (CDs) that deputies Valdovinos, Sacirovic and Troudt were favoring Hoover gang inmates and allowing assaults to occur in dorm 5A.
- The case was assigned to OSP and Nicole Watson was the primary investigator.
- There were no cameras or video surveillance located in the area where the incidents occurred.
- There are no records of who opened or closed a cell door or when a cell door was opened or closed.
- The investigation identified Six AICs who were allegedly assaulted in MCDC 5A and Deputy Valdovinos was mentioned to have aided or facilitated other AICs in the assault. One of the assaults, Valdovinos allegedly participated in.
- The investigation identified two AICs who were assaulted in MCDC 5A and Deputy Sacirovic was mentioned to have allegedly aided or facilitated other AICs in the assault.
- The investigation identified one incident where Deputy Troudt allegedly allowed a fight to occur in MCDC 5A, after Deputy Valdovinos opened a cell door to facilitate an assault.
- The majority of assault victims were identified by CDs years after the incident. The information was proffered during debriefs with defendants who were cooperating with investigators on unrelated cases. These CDs had previously been charged with serious felony person crimes and were meeting with investigators to give information about their codefendants. In a series of debriefs that focused on unrelated violent felonies the CDs also provided information regarding the Multnomah County Detention Center, Deputies Valdovinos, Sacirovic and Troudt and their observations regarding assaults and use of contraband in dorm 5A.

¹ Opening cell doors remotely to allow access in or out of a cell.

² The investigation included over a thousand pages of material and hours of interviews. In order to fully understand the facts and entire investigation a thorough analysis of this material is needed.

- Multiple other MCSO employees deemed potential eyewitnesses to these violations were identified and interviewed. The MCSO employees denied observing assaults facilitated or participated in by the defendants or contraband being provided to AICs. The deputies who did talk about the violations, referred to incidents as rumors they heard from others, but do not place themselves as eyewitnesses and do not provide the source of the rumors. In some instances, the witnesses did not want to make a statement or were interrupted by union representatives who ended the interview.
- Of the victims that were able to be located and interviewed, some had inconsistent statements of the events, denied guards were involved, could not give a description or name of the guards involved or denied the assaults ever happened. In certain cases, witnesses such as other AICs or MCSO staff who were present were unable to remember or denied the events took place.
- The investigation revealed that AICs who claimed to be assaulted by MCSO deputies or assaulted by AIC/s who were aided by MCSO guards, in many instances, were sent to the “hole” or suicide watch around the same time. Reports were written by MCSO deputies during that time contradicting the alleged assaults and referring to the AICs making suicidal statements, hitting themselves, violating a rule or being the aggressor in an altercation. These reports provide an alternative explanation for injuries as well as motive to lie.
- The investigation identified allegations that Deputy Sacirovic brought marijuana into the jail and allowed favored AICs to use his personal cell phone. In addition, the investigation looked into an allegation that Deputy Sacirovic flashed his gun and was associated with Hoover gang members at the Ilani Casino. No corroborating evidence was found for either incident.
- Deputy Sacirovic, Troutd and Valdovinos were Mirandized and interviewed. Deputies Sacirovic and Troutd denied any assaults, door popping or favoring certain AICs. Deputy Valdovinos requested a union rep and terminated the interview soon after it begun.
- There were no records of financial compensation or payments to any of the three deputies.
- The investigation reviewed jail calls from victims and AICs. There are some calls that refer to an altercation, or an incident, but they are insufficiently detailed to prove any specific violation or who was involved.
- The investigation reviewed booking photos, and medical reports from inside the jail that seem to suggest that some of the victims had some form of minor injury or reported an injury to staff. The lack of reporting for some victims, the lack of documentation of photographic evidence and the delay or lack of specificity of other reports are insufficient to prove how and who caused the injuries.

I have met with OSP Investigator Nicole Watson and she agrees with my evaluation and ultimate conclusion regarding this case. I will briefly summarize the reasons that have ultimately led to my determination that we will be unable to prove charges of Official Misconduct in the First or Second degree, Supplying Contraband or Assault beyond a reasonable doubt.

I have serious concerns about the alleged actions of the defendants, Deputies Valdovinos, Sacirovic and Troutd. This investigation illustrates that they routinely volunteered to work in Dorm 5A at MCDC. Clearly, this is a difficult dorm to supervise, and because many deputies preferred not to work in that area, defendants could work with some impunity during this time as long as the results were acceptable.

The standard for a criminal conviction is significant and requires adherence to the Oregon Evidence Code. Proof beyond a reasonable doubt is required for all elements of the crime and for disproving any applicable defenses. My decision and review of this case include an analysis of the weight and admissibility of the statements and evidence applying the rule of admissibility, statutes and caselaw. This investigation reaches back 3-5 years looking into conduct that occurred inside the Multnomah County Detention Center Jail (MCDC). Factors I considered in making my evaluation and

charging decision are, but are not limited to; the presence or lack of evidence collected, the quality of testimony and statements made by witnesses, corroborating or lack of corroborating statements and evidence, the suspects' statements, victim participation, the timing, motivation and reporting of incidents, the lack of reporting incidents, inconsistent statements, the credibility of the witnesses, the witnesses' criminal history, the witnesses' history for truthfulness and how they would be received by a fact-finder at trial.

As discussed above, because of the nature of the offenses, the location of the incident, the victims being criminal defendants in custody and the time period, much of the information regarding potentially criminal acts comes from cooperating defendants (CDs). I have reviewed the CD's criminal history, proffers and trial transcripts from other cases they cooperated. There are significant concerns about their veracity, their testimonial value and the serious impeachment risks associated with them. For example, a significant CD, who gives information regarding multiple assaults in 5A, also admits under oath in a prior unrelated trial to lying under oath and withholding information during their testimony during a proffer, under oath in grand jury and trial. Other sources of information have admitted to engaging in violent crimes, including homicide, and have been convicted of or participated in other significant violent person felonies.

I have since learned that there are now cameras in the dorms and that the AIC complaint process has been changed so that the potential subject/s of the complaint is not the MCSO employee reviewing the complaint.

Another forum, such as an IA investigation or DPSST discipline investigation, would not have such restrictive evidentiary rules prohibiting hearsay and other evidence, a lower standard of proof and is the most appropriate venue to address the conduct of these three individuals.