

Discipline and Due Process: When Law Enforcement Investigations Require Bargaining

ALADS v. County of LA

B331881, 2004 WL 4834247 (Cal. Ct. App. Nov 20, 2024)

A California court recently decided a case between the Association for Los Angeles Deputy Sheriffs (ALADS) and the County of Los Angeles (LA County) and its Office of Inspector General (OIG).

The case concerns the State Legislature's passing of laws that became effective on January 1, 2022. The laws, which are Penal Code sections 13670 and 13510.8, require law enforcement agencies to have a policy in place that prohibits participation in law enforcement gangs and also requires that any violation of the policy is grounds for termination. The statutes also require law enforcement agencies to cooperate with investigations into such gangs by any inspector general or other agency. They further authorize

revocation of a peace officer's certification if it is found that an officer participates in a law enforcement gang or if an officer refuses to cooperate with an investigation into potential police misconduct.

In the case, the LA County and the OIG sent letters to 35 Los Angeles Sheriff's Department deputies, directing them to appear and answer questions about their knowledge and involvement in law enforcement gangs and to display and provide photographs of certain tattoos on their bodies. The then-LA County Sheriff Robert Luna also sent the deputies his own letter that ordered them to participate in the interviews and warning that refusal to cooperate would be grounds for discipline, including termination.

ALADS filed an unfair labor practice claim against the LA County and the OIG and also sued them to prevent them from proceeding with the interviews. ALADS claimed that LA County and OIG were required to meet and confer with ALADS before requiring the deputies to be interviewed and subject to potential discipline. ALADS claimed that the failure of the LA County and OIG to meet and confer with them violated California's

collective bargaining laws under the Meyers-Milias-Brown Act.

The court sided with ALADS and concluded that LA County and the OIG were prohibited from conducting the interviews. The court specifically found that because the deputies *could* face disciplinary actions from the interviews, LA County and the OIG were required to meet and confer with the Union. The court therefore *prohibited* LA County and OIG from proceeding with the interviews unless and until they met with ALADS to bargain for the disciplinary effects of the interviews.

Takeaway: Although government employers are permitted to conduct investigations and interviews of law-enforcement officers under various circumstances, if the interview or investigation could result in discipline and was not bargained for by the Association, those investigations and interviews could be subject to collective bargaining laws. As a result, government employers may not be able to conduct the investigations or interviews unless and until they meet with your Association to bargain for the disciplinary effects of those events.

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