

**LOS ANGELES COUNTY DISTRICT ATTORNEY
CHARGE EVALUATION WORKSHEET**

X FELONY MISDEMEANOR	AGENCY NAME LAPD - INTERNAL AFFAIRS	DA CASE NO. 44611121		DATE 09/24/2024			
	AGENCY FILE NO. (DR OR URN) 23-002033	DA OFFICE CODE J.S.I.D. #23-0317R		VICTIM ASSISTANCE REFERRAL <input type="checkbox"/> YES - NOTIFY VWAP <input checked="" type="checkbox"/> NO			
SUSP NO.	SUSPECT			CHARGES			
				CODE	SECTION	OFFENSE DATE	REASON CODE
1	NAME (LAST, FIRST MIDDLE)) LEWISON, COLE			PC 141(B)	06/15/2023	B	
				PC 484(A)	06/15/2023	B	
	DOB	SEX (M/F) M	BOOKING NO.	VIP -- Yes X No			
	Gang Member Name of Gang			Victim Gang Member Name of Gang:			
Victim Name:			Victim DOB:				
2	NAME (LAST, FIRST MIDDLE))						
	DOB	SEX (M/F)	BOOKING NO.	VIP -- Yes -- No			
	Gang Member Name of Gang			Victim Gang Member Name of Gang:			
	Victim Name:			Victim DOB:			
3	NAME (LAST, FIRST MIDDLE))						
	DOB	SEX (M/F)	BOOKING NO.	VIP -- Yes -- No			
	Gang Member Name of Gang			Victim Gang Member Name of Gang:			
	Victim Name:			Victim DOB:			
Comments SEE ATTACHED.							

LAST NAME: LEWISON

FIRST NAME: COLE

DA CASE NUMBER: 44611121

I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): BRET BANACHOWSKI FILING OFFICER (SIGNATURE): mailed 9/25/24 SERIAL #: 35958

DEPARTMENT OF JUSTICE REASON CODES (FORM 8715)	D. Victim Unavailable/Declines To Testify	H. Other (indicate the reason in Comments section)	L. Prosecutor Prefiling Deferral
A. Lack of Corpus	E. Witness Unavailable/Declines to Testify	I. Referred to Non-California Jurisdiction	<u>DISTRICT ATTORNEY'S REASON CODES</u>
B. Lack of Sufficient Evidence	F. Combined with Other Counts/Cases	J. Deferred for Revocation of Parole	M. Probation Violation filed in lieu of
C. Inadmissible Search/Seizure	G. Interest of Justice	K. Further Investigation	N. Referred to City Attorney for Misdemeanor Consideration

The Justice System Integrity Division (JSID) of the Los Angeles County District Attorney's Office has completed its review of the allegations involving Los Angeles Police Department (LAPD) Officer Cole Lewison, Serial #43136, in violation of Penal Code section 141(b) and 484(a). For the reasons set forth below, this office declines to initiate criminal proceedings against Lewison. Case 24CJCF02528, charging Officer Alan Carrillo, Serial #43563, with two violations of Penal Code section 141(b) and three violations of Penal Code section 484(a), was filed on April 18, 2024.

The following analysis is based on investigative reports, witness interviews, body worn camera videos (BWV), and photographs submitted to this office on September 12, 2023.

STATEMENT OF FACTS

A citizen complaint filed with the Los Angeles Police Department (LAPD) resulted in a review of body worn video of detentions, stops, and arrests by Officer Alan Carrillo. During this review, inconsistencies were noted between the body worn video and entries in the Automated Field Data Report (AFDR) system for two incidents, as well as one report submitted for a criminal filing in a third incident.

Background on AFDRs

An AFDR is a database entry made by a police officer employed by LAPD to document instances when any person is detained or searched, regardless of the initial reason for the encounter. Data recorded in an AFDR is used to fulfill a mandate by Government Code § 12525.5, which provides, in part:

- That every police department must collect certain data regarding pedestrian and traffic stops and provide that data to the California Department of Justice (§ 12525.5(a)(1) and (a)(2));
- The data to be collected includes, among other things, the date, time, and location of a stop, and the reason for the stop, and actions taken by the officer during the stop, including whether any property was seized and, if so, the type of property that was seized and the basis for seizing it (§ 12525.5(b)(1) and (b)(8));
- That all data and reports made by police agencies are public records (§ 12525.5(f)).

An August 3, 2022, memorandum from the LAPD Professional Standards Bureau addressed to all sworn personnel at LAPD reminded officers that the Department Manual provided, "Sworn personnel ... shall complete an [AFDR] ... for every person detained or searched regardless of the initial reason for the encounter..."

June 15, 2023, Traffic Stop

Detention

On June 15, 2023, Carrillo, and his partner, Lewison, conducted a traffic stop of a gray Honda. Lewison was driving the marked patrol vehicle during the traffic stop. There were three occupants of the Honda, who were all ordered out of the car. A search of the occupants by Lewison yielded metal knuckles and a large knife. The knuckles had a button that, when pressed, extended a knife from the handle. The subject who had the knuckles admitted that he had previously been convicted of illegally possessing the same type of weapon. On body worn video, Carrillo can be seen manipulating the knuckles to release the blade. Carrillo put the metal knuckles on the windshield of the patrol car.



Figure 1: Carrillo holding brass knuckles after pushing button releasing blade. The faces of the detained individuals have been redacted.

After the knuckles were discovered, Carrillo advised the occupant on whom the knuckles were found that he could not have them. Possession of metal knuckles is a felony or misdemeanor offense as provided by Penal Code § 21810. The occupant who had the knuckles said he had previously been arrested for having metal knuckles. Carrillo told this occupant, "You can't have that shit on you bro, so that's your loss right there, alright? Your, your big knife is on the ground."

At the end of the stop, Carrillo warned all the occupants and released them at the scene. No report was filed for this stop. During a traffic stop about 33 minutes later that day, Carrillo again

activated his body worn video camera, and as he steps out of the passenger side of the patrol car, the metal knuckles can be seen in the front right passenger side door panel.

The metal knuckles were never booked as evidence and are not accounted for in any departmental records.

AFDR Entry

The AFDR entry for this stop indicated only that the vehicle driver was stopped for exceeding the speed limit, was warned, and released. There is no data in the AFDR entry to show that two other people were detained during the traffic stop. In the field indicating whether contraband or evidence was seized, "None" is marked. The AFDR access log indicates that Carrillo created the AFDR entry.

Search of Lockers

A search warrant to search Lewison's and Carrillo's lockers and property, police car, and the entire Mission Division Gang Enforcement Division office, at the Mission Community Police Station was signed on August 9, 2023. The warrant listed the metal knuckles from the June 15, 2023, detention as one of the items being sought, along with prohibited firearms components and other prohibited weapons. During the search, the metal knuckles and other items were not found, but a wallet not belonging to Carrillo was found inside Carrillo's locker.

Requests for Statements

On August 29, 2023, investigators requested a voluntary interview with Lewison. Lewison declined to give an interview. Carrillo also declined to provide a voluntary interview on September 6, 2023. According to investigators, Lewison provided a compelled statement to LAPD Internal Affairs Division. A *Pitches* motion to obtain Lewison's personnel file, including that statement, has been filed in Carrillo's case. The motion is scheduled to be heard on September 30, 2024, in Department 50.

LEGAL ANALYSIS

As discussed further below, insufficient evidence exists to prove beyond a reasonable doubt that Lewison intended to participate in a scheme to steal property or conceal evidence from LAPD. He is a percipient witness to the misconduct of Carrillo.

Penal Code § 141(b)

Penal Code § 141(b) criminalizes the concealment or destruction of evidence by police officers. The statute reads, in pertinent part:

A peace officer who knowingly, willfully, intentionally, and wrongfully alters, modifies, plants, places, manufactures, conceals, or moves any physical matter, digital image, or video recording, with the specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter, digital image or video recording will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry, is guilty of a felony....

To establish a violation of Penal Code § 141(b), the People must prove beyond a reasonable doubt that: (1) The defendant was a peace officer (2); The defendant knowingly, willfully, intentionally and wrongfully altered, modified, planted, placed, manufactured, concealed, or moved any physical matter, digital image, or video recording; and (3) The defendant did so with the specific intent that the action will result in a person being charged with a crime or with the specific intent that the physical matter, digital image, or video recording will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry.

The contemplated charges relate to the property that was confiscated during the June 15, 2023, traffic stop. As to Carrillo, it can be proven beyond a reasonable doubt that Carrillo intentionally took property related to possible commission of a crime by individuals that he had detained as part of an investigation. The owners of that property did not have the property returned to them and the property was not booked into evidence or logged in any way in compliance with LAPD procedure. The property was therefore concealed or destroyed by Carrillo in that the property was never properly booked, catalogued, or otherwise returned to the individuals that owned the property. However, this evidence more directly points toward criminal culpability for Carrillo, not Lewison. The falsified AFDR, submitted by Carrillo, constitutes evidence of consciousness of guilt and a continued effort to deprive the owners of their property and conceal the taking from proper LAPD record keeping. Based on his own conduct, Lewison merely searched the subject and removed the knuckles. No available evidence suggests that Lewison played any more of a role in the concealing of that property from LAPD.

Penal Code § 484(a)

To prove the crime of petty theft, a misdemeanor, the following elements must be proven beyond a reasonable doubt: (1) The defendant took possession of property owned by someone else; (2) The defendant took the property without the owner's consent; (3) When the defendant took the property he intended to deprive the owner of it permanently; and (4) The defendant moved the property, even a small distance, and kept it for any period of time, however brief.

Lewison removed property from the person of the detainees on June 15, 2023, but Carrillo confiscated that property and later failed to disclose that it was ever seized. The owners of that property did not have the property returned to them and the property was not booked into evidence or logged in any way in compliance with LAPD procedure. Carrillo, not Lewison,

submitted the AFDR that failed to state that evidence was seized. Therefore, an intent to permanently deprive the owner of that property can be proven beyond a reasonable doubt as to Carrillo, but not as to Lewison.

CONCLUSION

Based on the foregoing, we decline prosecution against Lewison. Carrillo has been charged, and a preliminary hearing setting and *Pitchess* motion hearing is set to occur on September 30, 2024.