

ANTELOPE VALLEY MONITORING TEAM USE-OF-FORCE AUDIT



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EXECUTIVE SUMMARY

A. PURPOSE

The United States Department of Justice (DOJ) and Los Angeles County Sheriff's Department (LASD or the Department) Settlement Agreement (SA) of April 28, 2015, includes several mandates associated with the use of force and requires the Monitoring Team (MT) to conduct compliance audits for those mandates. This is the MT's third use-of-force (UOF) audit of the Department's level of compliance with the SA's use-of-force provisions.

This executive summary provides an overview of the audit's methodology, key findings, and recommendations; a far more detailed discussion of those matters, the metrics employed, and the rationale for the MT's compliance assessments will be found in the body of the report. Readers are urged to read the full report, which follows this summary.

B. AUDIT POPULATION, SCOPE, AND METHODOLOGY

The Monitors' previous audits have documented extensive delays in the Department's investigation and management review of UOF cases; most investigations are not completed and adjudicated and their data entered until 10 to 12 months after the incident occurred. As a result, auditors had to select an audit period of October 1 through December 31, 2019, to provide a reliable and sufficient population to support the audit's findings and ensure sufficient time had passed for the implementation of changes based on the previous audits.

This audit addresses three levels of force: Not-Categorized Force Incidents (NCI) and Categories 1 and 2.¹ The entire population of cases that took place during this audit period was evaluated; sampling was not utilized. Each of the 73 investigations in the audit sample was carefully reviewed, including the investigatory report, interviews, recordings, and documentary evidence.

This audit assessed compliance in the following areas:

- Compliance with Department policy and SA requirements for the use of force (Paragraphs 102, 104—107);
- Using force as a last resort and de-escalating tense and evolving situations (Paragraph 103);
- Reporting uses of force (Paragraphs 108—110);

¹ When the compliance metrics for the use-of-force cases were originally established, the Department was using three categories of force (Categories 1, 2, and 3). Since then, the lowest risk incidents in Category 1—very minor force with no injury or complaint of injury—are now being classified as "Not-Categorized Force" Incidents (NCI). For compliance purposes, this audit considers NCI and Category 1 uses of force as a singular group. The MT conducts separate audits of the most serious force incidents, Category 3, because they are investigated and adjudicated much differently than are lower level uses of force.

- Investigating the use of force (Paragraphs 111, 112);
- Management review of the use of force and the implementation of remedial training (Paragraphs 113, 115, 116, 130, 133, 142);
- Management analysis of use-of-force data (Paragraphs 117, 118);
- Department internal audits of use-of-force investigations (Paragraphs 82, 120—123); and
- Use-of-force training (Paragraph 119).

C. CHARACTERISTICS OF USES OF FORCE IN THE POPULATION

A number of patterns or observations of note were found in the use-of-force incidents reviewed for this audit, the most significant of which are:

- In Lancaster, 58% of the subjects were Black, 27% Hispanic, and 15% White. In Palmdale, 27% were Black, 46% Hispanic, 15% White, and 12% Other;
- In 13 of the 74 UOF incidents (18%), the subjects involved were homeless;
- In 22 of the 73 cases (30%), the subject was either displaying signs of severe mental illness or had a significant a history of mental illness. Deputies responding to those calls were made aware of the mental-health issues involved before they arrived less than half the time (41%; see Recommendation 2 below);
- In 37 of the cases (51%), the subject of the force was under the influence of alcohol and/or drugs.

D. AUDIT FINDINGS

OBJECTIVE 1: LEVEL OF FORCE EMPLOYED

The Department was found to be in compliance with SA Paragraphs 102, 104, 105, and 107 (objectively reasonable force, force used for resistive behavior, prohibited use of force, and head strikes with impact weapon) for this audit period. The auditors found that 95% (69 of 73) of the use-of-force cases in the audit sample were consistent with these provisions, which exceeds the 90% threshold in the approved compliance metric. In four of the 73 cases, the force used was inconsistent with Department policy and SA mandates. In each of these cases, there were opportunities to de-escalate the evolving situations without using force or to use significantly less force. Unit and division commanders had assessed the force used in all 73 cases as being reasonable.²

² Several SA paragraphs, including Paragraph 102, prohibit using force unless it meets the legal standard of “objectively reasonable.” However, the Department’s policies on using force set a higher standard than mere compliance with the law. Also, Paragraphs 115 and 116 require LASD to hold deputies and supervisors accountable for UOF policy. So, the Monitors’ review and analysis focused on whether or not each use-of-force incident complied with the SA and Department policy, not just on determining whether the force used was legal.

The Department was also in compliance with Paragraph 106g. There were four cases in the audit sample where community members recorded an incident on their cell phones. In none of those cases did any Department member discourage them from photographing or recording the incident (100%).

This audit found no evidence of retaliatory force or head strikes with an impact weapon (Paragraphs 105 and 107). We did find several incidents in which deputies punched suspects, which is contrary to the Department's training standard encouraging the use of palm strikes in lieu of punches (Recommendation 3).

OBJECTIVE 2: AVOIDING FORCE AND DE-ESCALATION

The Department was in compliance with SA Paragraph 103 (de-escalation) for this audit period. Appropriate pre- and post-use-of-force de-escalation measures were either utilized or were impractical in 92% of the cases (67 of the 73 incidents), which exceeds the 90% threshold. In six cases, we found there were clear opportunities to attempt to de-escalate the situations before using force or after force had begun. In two of those cases, the suspect was experiencing a mental health episode when the incident occurred.

There were 10 more cases in which a deputy did not give a warning prior to deploying a Taser, when Department policy requires such a warning. In nine of those cases, the reports did contain sufficient documentation that exigent circumstances existed that precluded issuing a verbal warning before deploying the Taser. However, there was ample opportunity to give a warning in one case.

OBJECTIVE 3: REPORTING USE OF FORCE

The Department was in compliance with the reporting requirements of SA Paragraphs 108 (partial) and 110 (reporting use of force).³ Auditors' assessments found no indicia of unreported force. In every case, a sergeant was either already on scene when the use of force occurred or was promptly notified and immediately responded to the location.⁴

The Department was in compliance with Paragraphs 108 (partial) and 109 (completion of reports). In 70 of the 73 cases (96%), the reports met the SA requirements in this area. We found no material omissions in any of the deputies' reports, but in three cases the reporting deputy used canned or boilerplate language in material areas.

³ Auditors found no indicia of unreported force, so we were unable to make a finding on the requirement that such failures result in disciplinary action.

⁴ The Parties are in discussions about criteria to assess compliance with parts of SA Paragraphs 108, 109, 117, and 118. However, auditors are able to assess compliance based on standards of best practices and on the thresholds that are likely to be approved. Given the overwhelming evidence supporting these findings, it would be unfair to require that the Department wait until the next audit to achieve initial compliance in areas where they are obviously compliant at this time.

OBJECTIVE 4: SUPERVISORY INVESTIGATION

To assess compliance with the supervisory investigation provisions, the auditors determine whether each case has any deficiencies with regard to several SA-mandated factors (e.g., investigations of injuries, independence of the investigator, addressing allegations of misconduct, quality, and timeliness). The thresholds for compliance are different depending on the level of force (NCI/Category 1 or Category 2) and the level of deficiency (critical or non-critical). The overall compliance is provided here, followed by further explanation with regard to each factor.

The Department is not in compliance with SA Paragraphs 111 and 112 for NCI/Category 1 cases. The audit found that 89% (32 of the 36 NCI/Category 1 cases) did not have a critical investigative deficiency, which is below the compliance standard of 90%.

The Department is also not in compliance with Paragraphs 111 and 112 for Category 2 cases. The audit found that 89% (33 of the 37 Category 2 cases) did not have a critical investigative deficiency, which is below the compliance standard of 93%.

The Department was found to be in compliance with the SA's requirement for investigations with non-critical deficiencies. Sixty-two of the 73 cases were classified as satisfactory (85%), which meets the compliance standard of 85%. The 11 cases with deficiencies included the eight cases with a critical deficiency and three more cases that were complete but contained a relatively minor mistake or omission that did not challenge the report's reliability.

a. Investigation of Injuries

There were no injuries in the 30 NCI and Category 1 cases reviewed, essentially because the reporting of an injury would preclude one of those classifications being used. In all 37 of the Category 2 cases reviewed, the investigation documented that a supervisor and/or watch commander did interview the subject to determine whether they were injured and whether they received prompt medical attention for any injury, including very minor and complained of injuries (SA Paragraph 111).

b. Independent Investigation

Each of the five cases in which a sergeant had been involved in the use of force was investigated by an uninvolved supervisor (100%). In just one of 14 cases where a supervisor directed force did the same supervisor also conduct the investigation. In their reviews of that case, the watch commander and station captain noted this conflict and why the decision had been made to allow that supervisor to also investigate the force, as required by Department policy. There were two incidents in which sergeants who were involved in the use of force assisted with the investigations (SA Paragraph 112a).

The policy governing the investigation of NCI cases allows a sergeant who witnessed or directed a use of force to also conduct the use-of-force investigation. In four of the nine NCI cases where a sergeant was on scene, a sergeant who directed the use of force also completed the use-of-force investigation.

c. Use-of-Force Investigations with Allegations of Misconduct

Fifteen cases contained a substantive allegation of misconduct, which requires the initiation of a Service Comment Report (SCR; aka personnel complaint). An SCR was initiated in all eight of the Palmdale cases. However, only two of the seven Lancaster cases resulted in the initiation of an SCR, which constitutes a critical deficiency (SA Paragraph 130).

d. Quality of Investigations

There were eight cases (11%) with a critical deficiency in the quality of the investigation. Five of those eight cases were those in which the supervisor did not initiate an SCR despite allegations of significant misconduct and one case in which an SCR was initiated but did not address all of the allegations. In two cases, the investigations were incomplete and should have been returned for additional investigation (SA Paragraph 111, 112).

e. Timely Submission of Investigations

The Department policy requires that a force package be submitted to the division within 35 days of the incident and to the Discovery Unit within 60 days or it is considered overdue. The Department's risk management early-intervention systems are dependent on timely data entry into the Performance Recording and Monitoring System (PRMS). In our last audit, we found that the use-of-force forms do not require the investigating sergeant to record the date when the investigation is submitted to the watch commander. We recommended the forms be revised to capture that information, but the Department has not done so, making it impossible to assess compliance with Department policy (Recommendation 5).

OBJECTIVE 5: MANAGEMENT REVIEW

Similar to the review of investigations, to assess compliance with the management review of force investigations provisions, the auditors determine whether each case has any deficiencies with regard to several SA-mandated factors (e.g., ensuring compliance with force policy regarding the appropriate use of force, initiating an SCR for allegations, ensuring directed training is provided, thorough and accurate reporting, timeliness).⁵ The thresholds for compliance are different depending on the level of force (NCI/Category 1 or Category 2) and the level of deficiency (critical or non-critical). The overall compliance is provided here, followed by further explanation with regard to each factor.

The Department is not in compliance with SA Paragraphs 113, 115 (partial), and 116 for the management review of NCI/Category 1 use-of-force investigations. Four of the 36 NCI/Category 1

⁵ Compliance with SA Paragraph 114 associated with Executive Force Review Committees (EFRC) is evaluated in the MT's audit of use-of-force cases reviewed by the EFRC.

use-of-force adjudications contained a critical deficiency. So, although 89% (32 of 36) of NCI/Category 1 cases did not contain a critical deficiency, that is below the compliance standard of 90%.

The Department is not in compliance with Paragraphs 113, 115 (partial), and 116 for the management review of Category 2 use-of-force investigations, as 15 of the 37 Category 2 use-of-force adjudications contained a critical deficiency. The compliance level of 59% (22 of 37 Category 2 cases) is well below the compliance standard of 93%.

The Department is not in compliance with Paragraphs 113, 115 (partial), and 116, which relate to the requirement governing non-critical deficiencies in the adjudication of use-of-force investigations. The 19 cases with a critical deficiency were incomplete, did not adequately address significant issues, or contained material errors and/or omissions. Five more cases contained a relatively minor mistake or omission that did not render the adjudication unreliable. So, 67% (49 of 73) use-of-force adjudications were satisfactory, which is below the compliance standard of 85%.

The Department is not in compliance with Paragraph 142 (accurate data entry) for the use-of-force cases in this audit population. There was one case in which an injury of admittedly questionable origin was not recorded on the use-of-force form and therefore not entered into PRMS. That case alone would not have put the Department out of compliance, but the Department did not enter 15 NCI cases into PRMS. That resulted in only 78% (57 of 73) of the use-of-force cases in the audit population being entered into PRMS.

a. Ensuring Compliance With Use-of-Force Policy

In four cases, the force used was determined to be inconsistent with Department policy, but Department managers found them to be consistent with Department policy. This constitutes a critical deficiency.

b. Ensuring Compliance With Taser Policy

Department policy requires that, whenever practical, deputies must give a verbal warning of their intent to use a Taser before it is deployed.⁶ In the event a Taser warning is not given, Department policy also requires that deputies document the reason why it was not given in their reports.

In nine cases, deputies did not give a warning before deploying a Taser, but the reports contained indicia that exigent circumstances may have existed for not issuing a Taser warning. While there may have been sufficient justification for deploying a Taser in these cases, Department policy requires that deputies clearly articulate why they did not give a warning in their reports. That did not occur in these cases, and management's failure to ensure deputies comply with Department policy constitutes a critical deficiency.

⁶ LASD Manual of Policy and Procedures (MPP) 5-06/040.95 Electronic Immobilization Device (Taser) Procedures

There were two other cases in which a Taser was deployed without warning, and the reports do not document sufficient indicia supporting the lack of a Taser warning.

c. Initiating an SCR for Alleged Misconduct

Fifteen of the use-of-force investigations in the audit population contained at least one significant allegation of misconduct (seven Lancaster and eight Palmdale). In five of the seven Lancaster use-of-force investigations, the watch commander failed to initiate an SCR to address the significant allegation of misconduct. The reviewing captain and commander also failed to note and correct this, which constitutes a critical deficiency and non-compliance for these five cases. All eight of the Palmdale use-of-force cases with a significant allegation of misconduct resulted in the initiation of an SCR.

d. Directed Training

Of the 73 use-of-force investigations in the audit population, 14 (19%) recommended that a deputy receive training. In ten of those cases (71%), the investigation included documentation that the recommended training had been provided. In three of the remaining four cases, the training occurred, but not until several months after the incident. Those delays were the result of delays in processing the report, which then created a significant risk management issue. The delay notwithstanding, the training was provided, so these cases were assessed as containing non-critical deficiencies.

There was one case in which the unit commander directed that the involved deputy receive anger management training, which he never attended, and management did not take any action to correct that. This case was assessed as containing a critical deficiency.

e. Impediments to Effective Adjudications

The forms used to adjudicate uses of force (Form 438) contain a series of questions that must be answered by the watch commander, unit commander, and division commander. In the final section, unit and division commanders are asked to assess whether the force used was *legal*, but they should also be asked whether the force used was consistent with Department policy (Recommendation 7).

We also noted several cases in which a supervisor or reviewing manager referred to the Department's Situational Use-of-Force Options chart to support their conclusion regarding force being objectively reasonable. Recognizing the complexity of force today, most law enforcement agencies have done away with these oversimplified two-dimensional charts, relying instead on a clear list of factors to be considered, much like the list in the findings section of the Department's use-of-force reporting form (Recommendation 8).

f. Risk Management Issues

This audit revealed that NCI cases were not being entered into PRMS and therefore were not being captured on employee histories or in the Department's early warning system. We notified the Compliance Unit, and eventually the Department decided to include NCI cases in PRMS (see Recommendations 9 and 10 below).

Auditors also found several cases that reflected insufficient attention on the part of supervisors and managers to risk management considerations when reviewing reports. These cases included force stemming from unsupported conclusions, allegations of profiling not being addressed, and tactical errors (Recommendation 11).

g. Recording Use-of-Force Data on Use-of-Force Reports

In addition to the 15 NCI cases that were not entered into PRMS, there was one case in which an injury was not captured in the report or, therefore, in PRMS.

h. Timely Management Review

The Department Manual requires that a force package be submitted to the division within 35 days of the incident and to the Discovery Unit within 60 days or it is considered overdue. Lancaster's use-of-force investigations were approved by the watch commanders much more quickly than Palmdale's. Lancaster investigations were approved an average of 19 days from occurrence. Conversely, many of the Palmdale use-of-force investigations had excessive delays. Palmdale cases averaged 49 days from occurrence until the report was approved by a watch commander and sent to the division. Five of those investigations (19%) took more than 100 days (Recommendation 12).

i. Recording Use-of-Force Data in PRMS

In our last audit, we recommended that the use-of-force forms should contain a section for Discovery to enter the date it was received, reviewed, and entered into PRMS. That recommendation was not implemented and should be (Recommendation 13).

Apart from the NCI cases, the Discovery Unit's data entry into PRMS was accurate, and, consistent with our prior audits, we found no errors in the data entry for use-of-force reports.

OBJECTIVE 6: MANAGEMENT ANALYSIS OF USE-OF-FORCE DATA

The Monitor is unable to make a determination as to compliance with SA Paragraph 117 at this time pending our formal review of the Risk Management Forum (RMF) process and the establishment of a compliance metric by the Parties. The MT has attended several AV RMFs, which review uses of force,

including deputy-involved shootings and unintentional discharges, and other risk management issues for each command.

The lack of a compliance metric notwithstanding, the Department is not in compliance with Paragraph 118. While we found no evidence that informal supervisory feedback was replacing the need for formal discipline, we did find that PRMS does not have the capacity to store the training and tactical review section of use-of-force reports, and we have not been informed of any plan to do so.

OBJECTIVE 7: LASD ANALYSIS OF USE-OF-FORCE INVESTIGATIONS

The Department is not in compliance with SA Paragraphs 82, 120—123. The Department has not submitted any analysis or reports regarding use-of-force data and trends that met the requirements of those provisions. The MT recently gave feedback to the Department regarding their work plan for addressing some of those requirements.

OBJECTIVE 8: USE-OF-FORCE TRAINING

As of the date of this report, the Department remains out of compliance with the use-of-force training requirements of Paragraphs 107 and 119. The MT began a formal review of the Department's force training in May 2020. After reviews of several versions of curriculum materials and numerous discussions and meetings, the MT and DOJ representatives recently virtually attended the Department's updated use-of-force training and will soon meet with the Department to discuss their assessments of the training.

E. COMPLETE FINDINGS AND RECOMMENDATIONS

As noted in the opening of this Executive Summary, we recommend that all readers review the entire audit report to gain a better understanding of the basis for the MT's observations and findings as well as the recommendations made. Also, the report appendices contain concise lists of: the compliance status for each SA UOF paragraph, a list of recommendations describing immediate priorities and tasks to be undertaken in order for the Department to achieve full compliance with the requirements addressed in this audit report, and a list of other significant findings.

I. DEPARTMENT OF JUSTICE—CIVIL RIGHTS DIVISION INVESTIGATION

In August 2011, the Department of Justice's (DOJ) Civil Rights Division began an investigation into allegations that the Los Angeles Sheriff's Department (LASD, or the Department) engaged in unconstitutional policing at two stations in the Antelope Valley cities of Lancaster and Palmdale. The investigation involved a review of more than 35,000 LASD documents, site visits, and interviews of numerous LASD command and line staff. The DOJ investigators rode with patrol deputies, toured AV communities, interviewed local government officials, and met with other governmental agencies. They conducted community meetings and reached out to community leaders. They worked closely with two police practices consultants as well as with an expert on statistical analysis.

In a 46-page letter time stamped June 28, 2013, the Civil Rights Division issued its findings. With respect to the use of force, DOJ's Findings Letter concluded that the LASD's Antelope Valley stations "have engaged in a pattern or practice of discriminatory and otherwise unlawful searches and seizures, including the use of unreasonable force, in violation of the Fourth Amendment, the Fourteenth Amendment, and Title VI."⁷ The DOJ's finding letter also concluded that deputies assigned to Lancaster and Palmdale Stations:

*use unreasonable force against handcuffed detainees who do not pose threats to the deputies or to the public. Notably, the vast majority of the use of force incidents that involved handcuffed subjects were against people of color. While most of these incidents appeared contrary to LASD policy, some LASD policies and practices appear to permit and even encourage deputies to use force that is out of proportion to the threat of harm presented.*⁸

Finally, the DOJ expressed concern with the AV deputies' use of unreasonable head and face strikes of handcuffed individuals:

Punches to the head or face can cause severe injuries to the individual, and additionally carry a high risk of injury to the deputy using such force. Deputies should only use this extremely dangerous level of force where lower force levels are not available or are ineffective, especially when the individual is already handcuffed and less severe use of force alternatives are available. See Graham, 490 U.S. at 396. LASD's Deputy Field Operations Manual and Defensive Tactics Manual state that "personnel are discouraged from striking an attacker's head with a fist" and encourages deputies "to use an open hand palm heel strike to lessen the potential of cutting injuries."⁹

⁷ Page 1, third paragraph. DOJ Findings Letter is available on the Monitors' website: <http://antelopevalleysettlementmonitoring.info>

⁸ Section II, Page 6, third paragraph.

⁹ Section V, Page 32, first paragraph.

The DOJ acknowledged that the LASD policies reviewed were, “for the most part, consistent with constitutional policing.” However, its investigation determined that those policies were not consistently followed and that some types of policy violations were routinely tolerated:

This tolerance for misconduct occurs in part because the accountability measures LASD has in place are not effectively implemented in the Antelope Valley. We found that LASD must do more to ensure that deputies adhere to policies, and that supervisors and commanders provide appropriate redirection, guidance, and accountability when errant conduct occurs. . . . We found deficiencies in how the Antelope Valley stations implement the use of force review systems that LASD has put in place, deficiencies that compromise LASD's ability to effectively respond to problematic uses of force by Antelope Valley deputies. While LASD supervisors in the Antelope Valley appeared willing to offer guidance or mild critiques of officer uses of force, we found a pattern of reluctance to hold deputies accountable even when they commit serious violations of LASD policy, including significant uses of unreasonable force.¹⁰

II. SETTLEMENT AGREEMENT

On April 28, 2015, the DOJ and the LASD entered into a Settlement Agreement (SA) with the goal of ensuring that police services are delivered to the people of Lancaster and Palmdale, and the surrounding unincorporated areas, in a manner that fully complies with the Constitution and laws of the United States, effectively ensures public and deputy safety, and promotes public confidence in the Department and its deputies.¹¹ Included in that document are several definitions pertaining to the use of force as well as several paragraphs enumerating the specific objectives to be achieved.

A. USE OF FORCE DEFINITIONS

- **Force** means any physical effort used to control or restrain another, or to overcome the resistance of another (Paragraph 13).
- **Use of force** means any physical coercion used to effect, influence, or persuade an individual to comply with an order by a deputy (Paragraph 39).
- **Reportable use of force** means any use of force that is greater than that required for [compliant] searching or handcuffing. Additionally, any use of force which results in injury or a complaint of pain must be reported (Paragraph 32).
- **Active resistance** means a subject's physical actions to defeat a deputy's attempt at control and to avoid being taken into custody such as attacking or striking a deputy. Verbal statements, bracing, tensing, pulling away, or fleeing the scene, do not alone constitute active resistance (Paragraph 5).

¹⁰ Page 1, third paragraph; Section V, Page 29, fourth paragraph.

¹¹ Settlement Agreement, No. CV 15-03174, United States v. Los Angeles County et al. (D.C. Cal. Apr. 28, 2015).

- **Defensive resistance** means a subject's attempts to evade deputy attempts to control, including pulling away from an officer's grasp or fleeing the scene (Paragraph 9).
- **Executive Force Review Committee** refers to the LASD committee that reviews all uses of force requiring a roll out by the Internal Affairs Bureau force/shooting response team (Paragraph 12).

B. USE OF FORCE PARAGRAPHS.

Settlement Agreement Paragraphs 102 through 118 address use-of-force policy and principles as well as the manner in which the Department is required to report, investigate and review each use of force. The full text of those paragraphs is provided under the relevant objective in the Audit Objectives and Findings section of this report. Additionally, several other SA paragraphs, such as those governing public complaints and audits, are also included in the relevant objectives.

III. ANTELOPE VALLEY USE-OF-FORCE PROCESS

The LASD uses four classifications for the levels of force used by its employees.¹² Those four classifications are:

- **Non-Categorized Force Incident (NCI)** Involves any of the following when there is no injury or complaint of pain once the force has concluded, and there is no allegation of excessive force or other misconduct:
 - » Resisted hobble application;
 - » Resisted searching and handcuffing techniques; or
 - » Resisted firm grip, control holds, come-alongs, or control techniques.
- **Category 1 Force** involves any of the following where there is no injury:
 - » Searching and handcuffing techniques resisted by a suspect;
 - » Hobbling resisted by a suspect;
 - » Control holds or come-alongs resisted by a suspect;
 - » Takedowns; or
 - » Use of Oleoresin Capsicum (OC) spray, Freeze +P or Deep Freeze aerosols, or OC powder from a Pepperball projectile (when a suspect is not struck by a Pepperball projectile) if it causes only discomfort and does not involve injury or lasting pain.
- **Category 2 Force** involves any of the following:
 - » Any identifiable injury;
 - » A complaint of pain that a medical evaluation determines is attributable to an identifiable injury; or

¹² The Department and DOJ are still discussing the NCI modification.

- » Any application of force other than those defined in NCI/Category 1 Force that does not rise to the level of Category 3 Force.
- **Category 3 Force** involves any of the following:
 - » All shootings in which a shot was intentionally fired at a person by a Department member;
 - » Any type of shooting by a Department member that results in a person being hit;
 - » Force resulting in admittance to a hospital;
 - » Any death following a use of force by any Department member;
 - » All head strikes with impact weapons;
 - » Kick(s), delivered from a standing position to an individual's head with a shod foot while the individual is lying on the ground or floor;
 - » Knee strike(s) to an individual's head that deliberately or recklessly causes their head to strike the ground, floor, or other hard, fixed object;
 - » Deliberately or recklessly striking an individual's head against a hard, fixed object;
 - » Skeletal fractures, with the exception of minor fractures of the nose, fingers, or toes, caused by any Department member;
 - » All canine bites; or
 - » Any force which results in a response from the Internal Affairs Bureau (IAB) Force/Shooting Response Team, as defined in LASD Manual of Policy and Procedures (MPP, or Department Manual) Section 3-10/130.00.

If the subject of a use of force sustains or complains of any injury, LA County Fire is routinely requested to respond. Paramedics transport any subject of force who sustains a life-threatening injury or who must be transported in recumbent position. When the subject of the use of force is transported for a medical evaluation by deputies, they are supposed to be transported by deputies who were not involved in the use of force whenever possible. If the deputies involved in the use of force are the only deputies available to transport, the rationale for that decision must be documented in the use-of-force investigation.¹³

If a field supervisor was involved in or directed the use of force, an uninvolved supervisor is supposed to respond and conduct the investigation. In the event that an uninvolved supervisor is not available and the involved supervisor conducts the investigation, the rationale for that decision must be addressed in the investigation. An involved supervisor is also required to complete a supplemental report detailing any observations or actions the supervisor took, or directed, during the use of force.¹⁴

The deputies or staff who made the arrest are required to complete a detailed report documenting the elements of any criminal activity, the use-of-force incident, and any attempts to de-escalate the need to use force. With few exceptions, any other deputies or staff who used or witnessed force are required to complete a supplemental report documenting their actions and observations.

¹³ LASD MPP Section 3-10/105.00.

¹⁴ LASD MPP Section 3-10/110.00.

The supervisor conducting the use-of-force investigation performs myriad investigative procedures depending on the nature of the event. Those procedures include but are not limited to:

- Ensuring the watch commander is notified and when appropriate requesting their response;
- Interviewing the subject of the use of force, which is normally digitally/video recorded;
- Interviewing the involved deputies and any staff members on scene;
- Canvassing the area to identify and interview any witnesses;
- Canvassing the area to identify and collect any documentary and physical evidence, including any camera recordings that may have captured the incident;
- If the subject of the use of force was transported for medical treatment, responding whenever possible to the medical facility to interview the treating physician and obtain documentation of any medical treatment provided;
- Determining if there are any indicia that the use of force is a Category 3 event and if so, notifying the lieutenant watch commander and requesting notification of IAB staff, and requesting IAB to conduct the investigation;
- Ensuring the involved staff complete the required crime, arrest, and supplemental reports; and,
- Completing an investigative report.

Category 3 use-of-force investigations are conducted by IAB. Those investigations are reviewed through the IAB chain of command and submitted to the Executive Force Review Committee (EFRC) for adjudication. Category 3 uses of force are addressed in a separate MT audit.

A. WATCH COMMANDER RESPONSIBILITIES

The on-duty watch commander, who is nearly always a lieutenant but occasionally is a sergeant, often responds to the incident location and to any medical facility where the subject of the use of force is being treated. The watch commander examines the subject, documents any injuries in their report and captures them on digital media. The watch commander also interviews the subject of the use of force and summarizes that interview in their report. The watch commander makes a log entry for the incident and provides guidance to the investigating supervisor. If the watch commander sees any indicia of misconduct, they are required to take appropriate action, which can include initiating an administrative investigation and notifying the station commander and IAB depending on the situation. If the subject of the use of force alleges misconduct, the watch commander is supposed to initiate a Service Comment Report (SCR) documenting that allegation(s).¹⁵

The investigating supervisor completes the use-of-force investigation and submits it to the watch commander for review. The watch commander makes recommendations associated with policy compliance and the reasonableness of the force used. The use-of-force investigation and any related

¹⁵ MPP 3-04/010.05

reports are forwarded to the unit commander, then to the North Patrol Division (NPD) commander, for review and adjudication.

At each level of review use-of-force investigations are to be evaluated for completeness, compliance with Department policy and training, and risk management. The tactics used prior to, during, and after the incident are supposed to be evaluated along with efforts to de-escalate the situation without using force.

IV. FIRST USE-OF-FORCE AUDIT

The MT's first audit of Category 1 and 2 uses of force was published in October 2018 and was also summarized in the MT's 8th Semi-Annual Report (June 2019).¹⁶ The audit included a detailed analysis of the investigation and adjudication of the use-of-force incidents that were completed during January, February, and March 2017.¹⁷

The audit found that all 49 of the Department's uses of force that occurred during the audit period (100%) complied with the SA provisions requiring that uses of force be objectively reasonable. Specifically, the audit evidence supported a finding that the Department was in preliminary compliance with the SA provisions that:

- Restrict the use of force to overcome passive resistance (Paragraph 102);
- Prohibit the use of force when a person is exhibiting resistive behavior but is otherwise under control and poses no threat (Paragraph 104);
- Prohibit the use of retaliatory force (Paragraph 105);
- Prohibit using force to prevent someone from recording the incident (Paragraph 106);
- Restrict the use of a hard strike to the head with any impact weapon (Paragraph 107); and
- Require that the analysis and findings of LASD uses of force are supported by a preponderance of the evidence (Paragraph 113).¹⁸

A. AVOIDING FORCE AND DE-ESCALATION

The audit found that 47 of the Department's 49 uses of force (96%) that occurred during the audit period complied with the SA provisions pertaining to the avoidance and de-escalation of force.

¹⁶ Monitor reports are available on the Monitors' website: <http://antelopevalleysettlementmonitoring.info>

¹⁷ This time period was selected to establish an initial baseline of LASD's progress in achieving compliance with the provisions of the SA.

¹⁸ The Department was found to be in preliminary compliance because the Department, DOJ, and Monitors had not yet agreed on compliance measures.

Specifically, auditors found the Department in preliminary compliance with the SA provisions that require:

- Use force as a last resort (Preface to the use-of-force section of SA);
- Advisements, warnings, and verbal persuasion be used whenever possible before resorting to force (Paragraph 103); and
- De-escalation of force as resistance decreases (Paragraph 103).

B. REPORTING USES OF FORCE

The audit found the Department to be in preliminary compliance with the SA requirements that all reportable uses of force must be brought to a supervisor's attention immediately, and that the involved deputies must complete a thorough report. Specifically, the audit found the department in preliminary compliance with the SA provisions that require:

- Deputies to report force immediately and complete thorough reports (Paragraph 108);
- Deputies to avoid the use of "boilerplate" language (Paragraph 109); and
- Witnessing deputies to ensure supervisory notification (Paragraph 110).

C. INVESTIGATING USES OF FORCE

Five SA mandates address the investigation of use-of-force incidents. The Department was found in preliminary compliance with four of those mandates and out of compliance with one. The Department was found in preliminary compliance with the SA requirements that:

- A supervisor responds to the scene *and* that supervisor conducts a thorough investigation (Paragraph 111);
- The supervisor completes a thorough report (Paragraph 112); and
- The supervisor submits the investigation for management review in a timely manner (Paragraph 113).

The Department was not in compliance with the portion of SA Paragraph 112 that requires that the supervisor's investigation must constitute an "independent review of the facts and circumstances of the incident." The audit found that 12 of the 47 use-of-force investigations (26%) were completed by sergeants who had directed deputies to use the force being investigated. This was inconsistent with the requirement for an "independent" review and presented an untenable conflict of interest.

D. USES OF FORCE WITH ALLEGATION(S) OF MISCONDUCT

The audit found that six of the 47 use-of-force investigations in the audit contained at least one allegation of misconduct (13%). In only one of those six cases (17%) was the allegation sufficiently investigated.

Note: The Monitors address the Department's compliance with the SA's complaint paragraphs in their Audit of Public Complaints.

E. MANAGEMENT OVERSIGHT

The audit found the use-of-force investigations contained sufficient information to adjudicate the use of force based on a preponderance of evidence. However, there was generally insufficient information to address the related issues, such as personnel complaints and risk management. Nine of the 47 use-of-force investigations (19%) contained risk management issues that were not identified or addressed during the management review process.

F. DIRECTED TRAINING

The audit found the department in preliminary compliance with the requirement that supervisors include documentation of training and tactical concerns in their investigative report (Paragraph 112). However, the audit identified eight cases in which a total of 25 employees were directed to receive additional training. In five of those cases, which involved 22 employees, that training was never provided. This put the Department out of compliance with the SA requirement that AV unit commanders review and track training and ensure that training is completed, documented, and recorded (Paragraphs 112, 118, 153, and 167).

G. RECORDATION OF DATA

The audit found that the Department was not yet in compliance with the SA requirements for capturing and entering accurate data into the Performance Recording and Monitoring System (PRMS). The use-of-force investigations were recorded accurately on the forms and in PRMS. However, there were excessive delays of up to seven months for entering data on completed cases.

H. AUDIT RECOMMENDATIONS

The Monitor made 17 specific recommendations, and the Department concurred, or at least did not express disagreement, with all of them. Eight of those recommendations have been implemented or closed (2, 3, 6, 7, 9, 10, 11, and 17), and four are pending implementation (1, 4, 5, and 13). There does not appear to have been any resolution of the remaining five recommendations (8, 12, 14, 15, and 16). The status of the recommendations is as follows.

- 1. The Parties need to reach consensus on whether the SA's provisions apply to non-AV commands providing police services in the AV, particularly those commands with personnel housed in one of the AV Stations.**
 - *Department Response:* The Department reached consensus with the MT and DOJ on all non-AV units except for K-9 and Special Weapons and Tactics Units.
 - *Status:* The parties are discussing these two commands, so this recommendation needs to remain open pending resolution.
- 2. The Department needs to determine why Audit No. L-7 did not appear on the PRMS printout for Lancaster Station's uses of force.**
 - *Department Response:* The Department does not have an explanation as to why Audit No. L-7 did not appear on the PRMS report, but it believes it may have been a clerical error.
 - *Status:* The Monitoring Team agrees this appears to have been the case, so this recommendation is closed.
- 3. The use-of-force investigator should obtain a copy of any report completed by LA County Fire Department personnel who provided medical treatment to the subject, and that report should be included in the force investigation package.**
 - *Department Response:* The Department's normal practice is to document that the Los Angeles County Fire Department responded and to collect the hospital's medical records for booking purposes. The Fire Department's position is that providing these documents would be a violation of the Health Insurance Portability and Accountability Act (HIPAA).
 - *Status:* This recommendation is closed.
- 4. The Parties need to reach consensus on the definition of "proportional force." That definition should then be included in the SA compliance metrics and the Department's policy, and AV deputies, supervisors, and management should be trained on the updated policy.**
 - *Department Response:* The Department successfully negotiated a definition of "proportional force" with the MT and the DOJ, and it will be included in its soon-to-be-published updated use-of-force policy.
 - *Status:* The Parties have agreed on the definition for "proportional force," and the Department has since published an updated use-of-force policy including the agreed upon definition. However, the Parties have not agreed on other provisions of the policy, which remains under review.
- 5. Department policy governing supervisors who directed the use of force also conducting the investigation needs to be reconsidered in recognition that such conflicts challenge the investigative independence and objectivity of those investigations.**
 - *Department Response:* The Department will address this in its revised use-of-force policy.
 - *Status:* This recommendation will remain open pending publication of the revised use-of-force policy.

- 6. The Supervisor's Report on the Use of Force should include a check box to indicate whether the investigating supervisor directed the use of force.**
 - *Department Response:* The current Supervisor's Report on Use of Force (Form 438) has a check box for each involved employee that addresses whether force was directed; however, it does not address whether the handling supervisor directed the force. The AV Stations will have the investigating supervisor document whether or not they directed force in the use-of-force review.
 - *Status:* The intent of this recommendation has been satisfied so it is closed.
- 7. The Department should hold its command staff, lieutenants, and supervisors accountable for ensuring the investigative independence of use-of-force investigations.**
 - *Department Response:* Investigative independence is currently documented case by case and is covered in policy.
 - *Recommendation Status:* The intent of this recommendation has been satisfied so it is closed.
- 8. The Department should modify its Supervisor's Report on the Use of Force to include the date the sergeant was assigned the investigation and the date it was submitted to the watch commander.**
 - *Department Response:* The handling supervisor is assigned on the day of the incident and is documented on the face page of the 438 form.
 - *Status:* This is not responsive because the date the investigating sergeant submits the investigation to the watch commander is not documented. Without this information the Department cannot determine whether supervisors are complying with its rules for submitting use-of-force investigations and the Monitors cannot assess whether use-of-force investigations are being completed in a timely manner. This recommendation remains open.
- 9. Monitors should conduct a follow-up audit of AV Category 3 uses of force to determine if the EFRC reviews them for policy, training, or tactical concerns.**
 - *Monitor Response:* The MT conducted a supplemental audit for Category 3 uses of force.
 - *Status:* This recommendation has been implemented.
- 10. The Parties need to confer on the compliance metric for management oversight of use-of-force investigations to require that significant risk management issues are identified and addressed.**
 - *Department Response:* The Department has reached consensus with the MT and DOJ; significant risk management issues are being added to the management oversight compliance metric.
 - *Status:* This recommendation has been implemented.
- 11. The Department should hold its command staff and supervisors accountable to ensure that employees who are directed to training are promptly scheduled to attend *and* satisfactorily complete the training.**
 - *Department Response:* Palmdale and Lancaster unit commanders have implemented a tracking system to log training attendance and follow-up procedures to ensure that personnel that miss training are rescheduled.
 - *Status:* There appears to be a system in place to ensure directed training occurs, and we will evaluate the effectiveness of that system in our next audit.

- 12. Decisions made by the EFRC must be communicated to the involved employees' current command, not just the command of occurrence. That notification needs to be documented along with the corrective action taken.**
- *Department Response:* Decisions made by the EFRC require the involved employee's unit to take corrective action.
 - *Status:* This will be addressed in the Monitors' next audit of cases reviewed by the EFRC.
- 13. The Department should standardize the naming of training courses in their databases and recommendation documents. The official POST course name should always be used to avoid confusion.**
- *Department Response:* The Department agrees with this recommendation and is in the process of implementing it.
 - *Status:* This recommendation is in the process of being implemented and will be reviewed in the next audit
- 14. The Department should add a PRMS data entry code to capture incidents in which a subject of the use of force attempted to disarm a deputy.**
- *Department Response:* This recommendation has been forwarded to the Advanced Officer's Training and Weapon's Unit.
 - *Status:* This recommendation has not been implemented and will remain open.
- 15. The Use-of-Force Report Form 438 should contain a section for Discovery to enter the date it was received, reviewed, and entered into PRMS. Meanwhile, that information needs to be recorded in a manner that is captured in the scanned electronic record.**
- *Department Response:* This recommendation has been forwarded to the Discovery Unit.
 - *Status:* This recommendation is more than two years old and still has not been implemented. Without this information, the Monitors cannot assess the timeliness of data entry into PRMS, which is a fundamental component of the Department's accountability system.
- 16. The Department needs to evaluate the process used in Discovery to review and input use-of-force data in order to identify the problem and find a way to input that data in a timelier manner.**
- *Department Response:* This recommendation was forwarded to the Discovery Unit.
 - *Status:* This recommendation has been made repeatedly over the past four years, but nothing has been done.
- 17. The Department needs to evaluate the quality control process Discovery uses to scan documents and ensure that each and every page is captured and legible.**
- *Department Response:* Discovery believes they are capturing data accurately with the exception of a few mistakes caused by human error. Discovery has ensured that any error brought to their attention will be investigated with the highest level of review and any changes will be expedited.
 - *Status:* There were no such errors in our current audit, so this recommendation has been implemented.

V. PURPOSE OF AUDIT

The purpose of this audit is to assess the Department's compliance with the provisions of the Settlement Agreement and the degree to which the Department has corrected the deficiencies identified in the Monitors' first audit and implemented that audit's recommendations.

The Settlement Agreement assigns the Monitors specific responsibilities in this area including:

In addition to compliance reviews and audits, the Monitor shall conduct qualitative and quantitative outcome assessments to measure whether LASD's implementation of this Agreement has eliminated practices that resulted in DOJ's finding a pattern and practice of Constitutional violations. These outcome assessments shall include collection and analysis, both quantitative and qualitative, of the following outcome data: . . .

- d. Use-of-Force Measurements including . . . [t]he number and rate of uses of force resulting in training or tactical reviews, with formal and/or with informal corrective action . . . ;*
- e. Training Measurements, including . . . [r]esponsiveness to training needs identified by reviews of deputy activity, use of force investigations, and personnel investigation, and documentation that training is completed as required. (Paragraph 153)*

Several other paragraphs also address the Monitors' responsibility to document the extent to which the Department is complying with SA provisions, the most notable of which are:

[T]he Monitor will assess the County's progress in implementing, and achieving compliance with, the Agreement; report on the status of implementation to the Parties and the Court. (Paragraph 146)

In order to assess and report on LASD's implementation of this Agreement and whether implementation is resulting in constitutional policing, the Monitor shall conduct compliance reviews and audits and outcome assessments as specified below. (Paragraph 148)

Compliance . . . means that LASD has: (a) incorporated the requirement into policy; (b) trained all relevant personnel as necessary . . . and (c) ensured that the requirement is being carried out in practice. Compliance reviews and audits will contain both qualitative and quantitative elements as necessary for reliability and comprehensiveness. Where appropriate, the monitor will make use of audits conducted by the Internal Monitoring, Performance Audits and Accountability Command. (Paragraph 149)

The monitor will conduct an ongoing review and report on LASD use of force on restrained individuals, use of force in response to spitting, and use of OC spray. (Paragraph 151)

VI. SCOPE OF AUDIT

This audit was designed to assess the degree to which the Department is complying with the SA provisions governing the use of force as well as the provisions governing the reporting, investigation and adjudication of reportable use-of-force events. Specifically, the audit assessed whether:

- The force used by AV deputies/staff was necessary, proportional, objectively reasonable, consistent with Department policy, and used in response to behavior that posed a threat to the deputy or public safety (Paragraphs 102, 104–106-g);
- Efforts were made to use advisements, warnings and persuasion to defuse and de-escalate evolving situations and de-escalate the use of force as resistance decreases (Paragraph 103);
- The force used involved a hard strike to the head with an impact weapon in an incident that did not justify the need for deadly force (Paragraph 107);
- Force incidents were accurately reported to a supervisor in a timely manner (Paragraphs 108–110);
- The use of force was thoroughly investigated (Paragraphs 111–112);
- The findings and conclusions were supported by a preponderance of evidence (Paragraph 113);
- Effective management oversight of the use of force was occurring, including holding deputies accountable for force trends and policy violations, and supervisors accountable for not detecting, adequately investigating, or responding to force that was unreasonable or otherwise contrary to Department policy and/or the law (Paragraphs 115–118); and,
- Information was recorded correctly on the forms and in PRMS (Paragraphs 141–143).

A. SCOPE LIMITATION—CATEGORY 3 USES OF FORCE

Category 3 uses of force comprise the most serious force incidents, including use of deadly force and force resulting in serious injury or death. Those cases are investigated by the Internal Affairs Bureau and are adjudicated by the Executive Force Review Committee. In addition to the SA requirements for the investigation and adjudication of uses of force, the SA also requires that:

LASD agrees to continue to require that the Executive Force Review Committee review use-of-force incidents requiring response by the IAB Force/Shooting Response Team under current policy, and to review the incidents for any policy, training, or tactical concerns and/or violations.
(Paragraph 114)

Because they are investigated and adjudicated much differently than the other uses of force, the MT conducts a separate audit of Category 3 uses of force.¹⁹

¹⁹ The November 2019 Category 3 use of force audit can be found at:
<http://www.antelopevalleysettlementmonitoring.info/content/documents/audits%20and%20analysis/AV%20UOF%20EFRC%20MT%20Audit%20Report%20November%202019.pdf>

VII. AUDIT POPULATION

An audit of this nature needs to ensure it only evaluates completed cases. Reviewing cases before management has an opportunity to review them precludes assessing the effectiveness of management reviews. Therefore, the audit population needed to be as contemporaneous as possible, but old enough that the vast majority of incidents have been reviewed by North Patrol Division. During preparation for the audit field work, auditors met with Compliance Unit staff and evaluated a variety of time periods to draw the audit's population. Auditors selected an audit time period of October 1, through December 31, 2019, because a sufficient number of use-of-force events occurred during that period that had been fully investigated and adjudicated, which provided a reliable and sufficient population to support the audit's findings. Additionally, that time period gave the Department more than enough time to implement the recommendations from our last audit.

The entire population for the audit time period was evaluated, so sampling was not utilized.

A. AUDIT POPULATION

The following chart shows the use-of-force investigations that occurred in the AV during the audit period. One case involved two subjects, with one being the subject of Category 1 use of force while the other was the subject of Category 2 use of force (**P-24**). That case was counted as a Category 2 incident because it is the higher force category.

STATION	NCI	CATEGORY 1	CATEGORY 2	TOTAL
Lancaster	12 (26%)	13 (28%)	22 (47%)	47
Palmdale	3(12%)	8 (31%)	15 (58%)	26
Total	15* (21%)	21† (29%)	37‡ (51%)	73

*NCI cases: L-1, L-3, L-5, L-7, L-17, L-18, L-20, L-23, L-24, L-29, L-42, L-43, P-9, P-15, P-20.

†Category 1 cases: L-6, L-9, L-13, L-15, L-16, L-19, L-30, L-32, L-34, L-37, L-40, L-41, L-47, P-1, P-10, P-11, P-14, P-18, P-21, P-25, P-26.

‡ Category 2 cases: L-2, L-4, L-8, L-10, L-11, L-12, L-14, L-21, L-22, L-25, L-26, L-27, L-28, L-31, L-33, L-35, L-36, L-38, L-39, L-44, L-45, L-46, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-12, P-13, P-16, P-17, P-19, P-22, P-23, P-24.

Auditors assessed the categorization of the use-of-force incidents in the audit population and agreed with the Department's categorization in all but two cases, P-25 and L-5. In Audit Number P-25 a deputy performed a takedown of a suspect who was not injured and who complained about deputy conduct. (Our review did not identify any misconduct issues either.) The Department classified the case as a Category 2 use of force, but it is actually a Category 1 use of force per Department policy. The case was considered to be a Category 1 use of force for purposes of this audit and is so reflected in the preceding table as well as throughout the report. In Audit Number L-5, a deputy was concerned that a

suspect was dangerously close to a vehicle that was being cleared by other deputies with their guns drawn. He told the suspect he was going to drag him away from the situation because they were in a potential crossfire. He then dragged the suspect about six feet, handcuffed him, and placed him in a patrol vehicle without incident, which is not a reportable use of force. Since the investigation was processed as an NCI use of force, it was assessed as one.²⁰

B. VALIDATION OF AUDIT POPULATION

A reliable audit must “validate the audit population” by making reasonable efforts to ensure that all uses of force occurring during the audit period were properly reported. This requires that auditors review activities where a use of force may have been noted without someone completing the required use-of-force report. The first validation step was to review Watch Commander Logs from Lancaster and Palmdale stations for the audit time period to determine whether all logged uses of force resulted in a use-of-force investigation.²¹ Another validation measure was to review civil claims and lawsuits filed for incidents occurring in the AV during the audit time period to determine if any contained indicia of unreported uses of force. Finally, auditors examined LASD reports of incidents that have an increased potential for a use-of-force event. Specifically, auditors reviewed reports involving a vehicular and/or foot pursuit as well as obstruction arrest reports. In every case, any mention of force being used resulted in the initiation of a use-of-force investigation that was included in the audit population.

Significant Finding 1: After conducting a thorough validation of the audit population, auditors found no indicia of unreported uses of force by deputies.

VIII. COMPLIANCE MEASURES

Since the first use-of-force audit, the parties have reached consensus on the metrics that will be used to measure compliance with the SA. Those “compliance metrics” are now the standard to assess Department compliance with the provisions in the SA. Compliance must be established through an audit or some other evaluation method (Paragraphs 148 and 149), and then compliance must be maintained for at least a year (Paragraphs 205 and 212).

With respect to the use of force, the compliance metrics fall into five categories:

1. Deputies’ use and reporting of force;
2. Supervisory investigations of use-of-force incidents;
3. Management oversight and review of use-of-force investigations;
4. Analysis of use-of-force trends; and

²⁰ The investigation met SA standards, other than the misclassification which was not assessed against the Department because it erred in what appears to be an abundance of caution.

²¹ Watch commanders are required to complete a log entry summarizing UOF incidents.

5. Department audits.

The audit objectives in this report were developed to coincide with those categories. The quantitative and qualitative standards that were used to measure compliance take into account that some provisions have a very high-risk exposure and therefore require a high level of compliance, while other provisions are more ministerial in nature, which makes a lesser level of compliance appropriate. The specific compliance metric for each objective is provided at the end of each objective along with the Monitors' compliance finding.

When the use-of-force compliance metrics were established, the Department used three categories of force. Since then, the AV began a pilot project in which the lowest risk Category 1 use-of-force cases were reclassified as Not-Categorized Force Incidents (NCI), and the investigator was allowed to use a streamlined reporting process. Consequently, uses of force in this audit sample comprise NCI, Category 1, and Category 2 uses of force, but the compliance metric only refers to Category 1 and Category 2 uses of force. So, for compliance purposes, this audit considers NCI uses of force as Category 1 uses of force.

Recommendation 1: The use-of-force compliance metrics need to be updated to include uses of force reported as NCIs in the same grouping as Category 1 uses of force.

IX. AUDIT FINDINGS

USE-OF-FORCE OVERVIEW

While the purpose of this audit is to assess the Department's level of compliance with specific SA provisions, it is important to remain mindful of the framework established in the preamble to the use-of-force chapter which says:

LASD agrees to revise its force policies and practices to reflect its commitment to upholding the rights secured or protected by the Constitution of the United States, protecting human life and the dignity of every individual, and maintaining public safety. LASD agrees to ensure that its accountability measures are implemented appropriately so that Antelope Valley deputies use force only when objectively reasonable, and in a manner that avoids unnecessary injury to deputies and civilians; and to use force as a last resort and de-escalate the use of force at the earliest possible moment. Deputies and staff shall endeavor to use only that level of force necessary for the situation. To achieve these outcomes, LASD will implement the [SA's] requirements. (SA Page 24)

In assessing compliance with that goal, the Monitors are required to conduct both a quantitative and qualitative analysis of use-of-force incidents. In order to do that, the Monitor must look beyond just the force that was used and review the totality of circumstances leading up to and immediately following each incident. Why did the deputy contact this person in the first place? Did there appear to be any impediments to the subject's ability to follow the deputy's instructions? Was there an opportunity for deputies to de-escalate situations without resorting to force? If there was an opportunity for deputies to deescalate the situation without using force, did they try to do so? All these factors and the manner

in which they ebb and flow throughout the incident, investigation, and review process need to be considered in a qualitative evaluation.

While each objective in this chapter examines a specific aspect of each incident, this overview provides a broader context to the circumstances surrounding these incidents and, in a larger sense, perspective into the environment in which AV deputies work.

1. SOURCE OF ACTIVITY PRECEDING THE USE OF FORCE

This section provides information on the law enforcement activity that began the contact between deputies and the subjects of the use of force.

a. Lancaster

Thirty of the 47 Lancaster use-of-force incidents (64%) occurred after deputies responded to a radio call:

- Nine of those calls (30%) were for domestic/family violence (L-14, L-15, L-23, L-28, L-29, L-30, L-33, L-42, and L-45);
- Five (17%) were for men walking in traffic/roadway (L-3, L-8, L-12, L-20, and L-36);
- Two (7%) were for a man assaulting a woman (L-6 and L-38);
- Two (7%) involved suicidal behavior (L-7 and L-19);
- Two (7%) were for 5150 WIC mental health detentions (L-43 and L-47);
- Two (7%) were for a battery/assault just occurred (L-10 and L-11);
- Two (7%) involved a prowler, one of whom was reported to be armed (L-39 and L-41);
- One (3%) was for an assault with a deadly weapon (L-21);
- One (3%) was for a robbery in progress (L-31);
- One (3%) was for a disturbing the peace/business dispute (L-27);
- One (3%) was for a traffic collision involving a DUI suspect (L-18);
- One (3%) was for a theft suspect (484 PC) just occurred (L-32);
- One (3%) was for a man with a gun (L-5).

Of the remaining 17 incidents (36%):

- Four (24%) occurred during a vehicle stop (L-4, L-24, L-25, and L-26);
- Two (12%) occurred during a pedestrian stop (L-16 and L-44);
- One (6%) occurred during a bicycle stop (L-35);
- One (6%) occurred during an arrest following a (reported) consensual encounter (L-22);
- One (6%) occurred at the termination of a vehicle pursuit (L-46);

- Four (24%) occurred during booking or custodial movements in the jail (L-9, L-17, L-25, and L-26);
- Three (18%) occurred while transporting an arrestee (L-1, L-13, and L-34);
- One (6%) occurred in the station lobby (L-2).

b. Palmdale

Thirteen of the 26 Palmdale use-of-force incidents (50%) occurred when deputies responded to a radio call:

- Six calls (46%) involved a complaint of domestic/family violence (P-3, P-4, P-5, P-18, P-21, and P-25);
- Three (23%) involved a disturbance of the peace at a business (P-10, P-15, and P-19);
- One (8%) involved a suicidal person (P-8);
- One (8%) involved an assistance call from the Mental Evaluation Team (P-9);
- One (8%) was for a robbery just occurred (P-2);
- One (8%) was for a hot prowl burglary (P-1);

Of the remaining 13 incidents (50%):

- Four (31%) occurred during a pedestrian stop (P-7, P-17, P-20, and P-24);
- Two (15%) occurred during a vehicle stop (P-12 and P-22);
- Two (15%) occurred after a vehicle pursuit (P-23 and P-26);
- One (8%) occurred during a bicycle stop (P-16);
- One (8%) occurred during a DUI detention (P-11);
- One (8%) occurred while transporting an arrestee (P-6);
- One (8%) occurred during the booking process (P-14);
- One (8%) occurred when deputies were flagged down by a domestic violence victim (P-13).

2. DEMOGRAPHIC DATA OF USE-OF-FORCE SUBJECTS

a. Lancaster

The 47 Lancaster cases involved 48 subjects because one case (L-37) involved two male Black subjects.

- 28 subjects were Black (58%) (20 men²² and eight women²³).

²² L-1, L-2, L-3, L-5, L-13, L-17, L-22, L-24, L-25, L-26, L-27, L-30, L-31, L-33 (2 subjects), L-35, L-37, L-42, L-44, and L-47.

²³ L-7, L-10, L-15, L-21, L-29, L-34, L-40, and L-43.

- 13 subjects were Hispanic (27%) (11 men²⁴ and two women²⁵).
- Seven subjects were White (15%) (five men²⁶ and two women²⁷).

b. Palmdale

The 26 Palmdale cases involved 26 subjects.

- Seven subjects were Black (27%), and all seven were men.²⁸
- 12 subjects were Hispanic (46%) (11 men²⁹ and one woman³⁰).
- Four were White (15%) (two men³¹ and two women³²).
- Three were shown as "Other" (12%) (two men³³ and one woman³⁴).

Six of the eight Lancaster deputy-initiated contacts (four vehicle stops, two pedestrian stops, one bicycle stops and one "consensual encounter") that resulted in a use of force involved Black men (75%). The other two involved White men.

3. HOMELESS SUSPECTS

a. Lancaster

The 47 Lancaster cases involved 48 suspects. Of those 48 suspects, 12 (25%) were homeless.³⁵

b. Palmdale

The 26 Palmdale cases involved 26 suspects. One of those of those 26 suspects (4%) was homeless.³⁶

²⁴ L-8, L-9, L-11, L-18, L-20, L-23, L-32, L-36,, L-38, L-39, and L-46.

²⁵ L-6 and L-19.

²⁶ L-12, L-14, L-28, L-41, and L-45.

²⁷ L-4 and L-16.

²⁸ P-2, P-7, P-13, P-16, P-20, P-22, and P-25.

²⁹ P-1, P-3, P-4, P-5, P-8, P-9, P-11, P-17, P-18, P-19, and P-23.

³⁰ P-21.

³¹ P-10 and P-26.

³² P-6 and P-15.

³³ P-14 and P-24.

³⁴ P-12.

³⁵ L-3, L-8, L-10, L-16, L-19, L-21, L-24, L-25, L-29, L-32, L-40, and L-41.

³⁶ P-14.

4. INJURY TO SUBJECTS & DEPUTIES

Thirty-six of the 73 subjects (49%) sustained no reported injury, and the remaining 37 subjects (51%) sustained minor injuries such as scrapes, bruises and contusions. That is not unexpected given this audit was restricted to uses of force classified as NCI, Category 1, or Category 2 incidents. By definition, incidents in those categories cannot involve serious injury. One case involved a fractured nose, which is considered a Category 2 use of force (P-3). The deputy involved stated he punched the suspect on the face and nose, but the suspect also sustained injuries while being restrained by his father. The injury codes on the use-of-force report did not reflect that the suspect sustained a nasal fracture, which resulted in the same entry in PRMS.

Deputies sustained scrapes, bruises, small cuts, or minor injuries, with no further description, in six cases (L-12, L-21, L-25, L-35, and L-38; and P-18). None of the reports had indicia that any of the deputies sustained a serious injury.

5. PRESENCE OF WEAPONS

Three Lancaster cases involved weapons.

- A handcuffed carjacking suspect managed to slip out of his handcuffs and tried to grab a deputy's firearm (L-20).
- A suspect armed with a chain attacked two deputies (L-44).
- After a vehicle pursuit, deputies went in foot pursuit of a car thief suspect who repeatedly reached for his waistband. After he was taken into custody, a screwdriver was recovered from his waistband (L-46).

Three Palmdale cases involved weapons:

- A mentally ill suspect cocked a guitar over his head (P-4).
- A suicidal female suspect tried to strike the deputy with a loose handcuff (P-6).
- A suspect attempted to grab a deputy's firearm (P-24).

6. MENTAL HEALTH ISSUES

a. Lancaster

In the Lancaster stratum, 13 of the 47 cases (28%) involved subjects who either showed indicia of mental illness or had a significant history of mental illness.³⁷ In two of those cases, the subjects were also under the influence of a central nervous system stimulant (CNS).³⁸ In six of the 13 cases involving

³⁷ L-2, L-7, L-12, L-19, L-25, L-26, L-27, L-28, L-32, L-41, L-42, L-43, and L-47.

³⁸ L-12 and L-26.

mental illness (46%), the deputies were forewarned that the call involved a mentally ill person.³⁹ Of those six cases, all but one (L-47) resulted in the subjects being held on a 5150 WIC hold for 72-hour psychiatric evaluation. In one case, the suspect jumped in front of moving vehicles (L-12). In another case, the suspect was screaming nonsensically and had a history of taking psychiatric medications for psychotic episodes (L-26). In another case, the suspect hit himself in the face with rocks while yelling that he wanted to commit suicide (P-8).

b. Palmdale

In the Palmdale stratum, nine of the 26 use-of-force cases (35%) involved subjects with indicia of mental illness or a significant history of mental illness.⁴⁰ In one of those cases, the suspect was also under the influence of marijuana (P-9). In three of the nine use-of-force cases involving the mentally ill (33%) the deputies were forewarned that the call involved a mentally ill suspect. In every one of those cases, the subject was subsequently placed on a 5150 WIC hold for a 72-hour psychiatric evaluation.⁴¹ In one case (P-17), a deputy observed the suspect walking in traffic, and he was subsequently transferred to the Inmate Reception Center (IRC) for a psychiatric evaluation. In four cases, suspects had a history of mental illness, but their mental state was not the reason deputies sought to detain them.⁴²

Significant Finding 2: Twenty-two of the 73 use-of-force cases in this audit (30%) involved a subject who either displayed signs of severe mental illness or had a significant a history of mental illness.

Significant Finding 3: Deputies were forewarned in less than half the calls involving mental illness (41%) that they were responding to a call involving a person experiencing a mental health episode.

Recommendation 2: North Patrol Division should review the finding regarding deputies not being adequately forewarned of calls they were responding to that involved a person experiencing a mental health episode to determine whether there is a need for increased training of 911 staff to better discern when such calls for service potentially involve mentally ill subjects.

7. INFLUENCE OF ALCOHOL AND/OR DRUGS

a. Lancaster

In 23 of the 47 Lancaster use-of-force cases (49%), the suspects were under the influence of alcohol and/or drugs. The drugs consisted of myriad central nervous system stimulants.

³⁹ L-2, L-7, L-19, L-42, L-43, and L-47.

⁴⁰ P-4, P-5, P-6, P-8, P-9, P-12, P-17, P-25, and P-26.

⁴¹ P-4, P-8, and P-9.

⁴² P-5, P-6, P-12, and P-25.

b. Palmdale

In 14 of the 26 Palmdale use-of-force cases (54%), the suspects were under the influence of alcohol and/or drugs. The drugs included opiates and myriad central nervous system stimulants.

Significant Finding 4: In 37 of the 73 use-of-force cases in the audit population (51%), the suspects were under the influence of alcohol and/or drugs.

OBJECTIVE 1: THE USE OF FORCE

The following SA paragraphs establish the requirements for this objective.

LASD agrees to continue to prohibit the use of force above [compliant] handcuffing to overcome passive resistance, except where physical removal is permitted as necessary and objectively reasonable. (Paragraph 102)

LASD agrees to clarify that Antelope Valley deputies may not use force against individuals who may be exhibiting resistive behavior, but who are under control and do not pose a threat to the public safety, themselves, or to other deputies. LASD agrees to continue to require that Antelope Valley deputies assess the threat of an individual prior to using force and emphasize that a use of force must be proportional to the threat or resistance of the subject. If a threat or resistance no longer exists, deputies cannot justify the use of force against a subject. (Paragraph 104)

LASD agrees to explicitly prohibit the use of retaliatory force, particularly against subjects who express criticism of, or disrespect for, LASD Antelope Valley deputies. (Paragraph 105)

LASD agrees to explicitly prohibit interfering, threatening, intimidating, blocking or otherwise discouraging a member of the public, who is not violating any other law, from taking photographs or recording video (including photographs or video of police activities) in any place the member of the public is lawfully present. Such prohibited interference includes: a. Ordering a person to cease taking photographs or recording video; b. Demanding that person's identification; c. Demanding that the person state a reason why he or she is taking photographs or recording video; d. Detaining that person; e. Intentionally blocking or obstructing cameras or recording devices (not including physical barricades or screens used as part of a tactical operation or crime scene); f. Seizing and/or searching a camera or recording device without a warrant; g. Using force upon that person; or, h. Detaining or arresting an individual for violating any other law where the purpose of the detention or arrest is to prevent or retaliate for recording police activity. (Paragraph 106)

LASD will continue to require, and emphasize in its training, that a hard strike to the head with any impact weapon, including a baton, is prohibited unless deadly force is justified. Unintentional or mistaken blows to these areas must be reported to ensure that all reasonable care was taken to avoid them. (Paragraph 107)

1. MONITOR ACTIVITY

Several SA paragraphs, including Paragraph 102 above, prohibit a use of force that is not “objectively reasonable.” That term flows from the US Supreme Court case *Graham v. Connor*, 490 U.S. 386 (1989), which found that a Fourth Amendment “reasonableness” inquiry should be based on whether the officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting them. Department policy and practice also rely on the “objectively reasonable” standard to determine whether or not a particular use of force was acceptable.

While compliance with statutory and case law satisfies the legal standard, most agencies have adopted use-of-force policies that are more restrictive than simply allowing employees to use whatever force is legal. The Los Angeles Sheriff’s Department is no exception and has wisely adopted a use-of-force policy that sets a higher standard than mere compliance with the law. For example, the use of a Taser may be objectively reasonable, but Department policy requires that a warning be given before deploying a Taser, and when that is impractical, the deputy is required to document the reason a warning was not given in the related reports.⁴³ The Taser policy explains that a warning is intended to provide the subject with a reasonable opportunity to voluntarily comply and provide other deputies with warning that a Taser may be activated.

Another example is the Department’s requirement that:

*When force must be used, deputies and staff shall endeavor to use restraint techniques when possible, and then use only that level of force necessary for the situation.*⁴⁴

While there is a lawful obligation to avoid using unnecessary force, there is no legal requirement that deputies “use restraint techniques when possible.” This distinction between force that is legal and force that is allowed by policy notwithstanding, our review and analysis under Objective 1 focuses on whether or not each use-of-force incident complied with SA Paragraphs 102, 104, 105, 106, and 107.

Objective 1.1: Force Used

The AV unit commanders concluded that all 73 use-of-force incidents in the audit sample were objectively reasonable and consistent with Department policy. In all 73 cases, the North Patrol Division manager reviewing the cases concurred with the unit commanders’ adjudications. With respect to the force that was used, auditors concurred with the Department’s findings in most cases; however, in four cases, the use of force was not consistent with Department policy.⁴⁵

⁴³ Department Manual 5-06/040.95

⁴⁴ Department Manual 3-10/005.00

⁴⁵ In Audit Numbers L-4 and L-40 there was no video footage of the uses of force. There was video footage of Audit Numbers P-2 and P-14, which was reviewed by auditors.

- **L-4.** A male deputy (25 years old, 5'9", 180 pounds) was on patrol when he saw a woman (5'10", 180 pounds) sitting in a parked vehicle that had been reported stolen. As he was coordinating responding units, the woman exited the vehicle. The deputy tried to detain her at gunpoint, but she walked away. He yelled for her to stop and put her hands in the air, but she continued walking then ran. A brief foot pursuit occurred, and as the woman looked back at the deputy, a Parks Bureau deputy blocked the suspect's path with his patrol vehicle. The suspect ran into his stopped patrol vehicle, and according to the Lancaster deputy's report, she then turned in the opposite direction and began advancing on him in a fighting stance with her fist clenched. The deputy told her to stop and put her hands in the air, but she continued advancing on him with her fists clenched. (The Parks Bureau deputy described her as being in a boxer's stance.) When the suspect was about five feet from the Lancaster deputy, the Parks Bureau deputy (size not provided in reports) reached out and was "about to take control of her arms" when the Lancaster deputy, without warning, deployed his Taser. The Taser immobilized the suspect, and the Parks Bureau deputy was able to guide her to the sidewalk where she fell into a seated position then onto her back. The two deputies handcuffed her without using additional force.

The subject was transported to the hospital and approved for booking. She was booked for 10851 CVC (driving a vehicle without the owner's consent) at Lancaster Station Jail. A sergeant responded to the scene immediately and conducted a use-of-force investigation. The sergeant noted the deputy failed to broadcast he was in foot pursuit and recommended the deputy receive additional training. The deputy's training records show he attended foot pursuit policy training two days after the captain approved the investigation.

During her interview with the watch commander, the subject alleged misconduct, so the watch commander initiated an SCR. (The SCR will be addressed later in this report.) The watch commander concluded that the force used was in policy, fell within the Department's Force Options Chart, and was objectively reasonable. The station captain and NPD commander concurred with that finding.

We find there was insufficient justification for the deployment of a Taser in this situation. Two male deputies were trying to control a woman who had been sitting in a stolen car and then tried to flee. When she turned on one of them, the other reached out to grab her arm in an effort to control her. As he was doing so and while he was still in very close proximity to the woman, the other deputy deployed his Taser. Lesser force options such as a simple firm grip clearly could have been effective, and that is precisely what the Parks Bureau deputy was attempting to do. The use of a Taser in this situation, without warning, on a suspect who gave no indicia she may be armed while two deputies were present, was excessive and inconsistent with Department policy. The option to use lesser force should have been addressed during the review process and was not.

- **L-40.** A male deputy (35 years, 6'1", 210 pounds) conducted a traffic stop of a Toyota bearing the license plate of a Buick. The female driver (5'4", 132 pounds) immediately exited the vehicle in front of a residence. The deputy approached her, handcuffed her, and had her sit on the push up bar of the patrol car. The deputy asked where she got the license plate and she replied "here" gesturing toward a Buick parked in a driveway next to them, and that the owner gave her permission to borrow the plates because her plates had expired tags. The deputy requested another unit, then ran the driver and discovered she was driving on a suspended license. The deputy reported, "I decided I was going to tow the car. Since Suspect [Name] stated she knew people in the area and being the only deputy on scene, I decided it would be best to detain S/[Name] in the backseat of my vehicle, so I could safely conduct an inventory of the vehicle." The deputy told the woman she had a suspended license and that he needed to place her in the patrol car. He began walking her in that

direction when, according to the deputy, she became uncooperative and began arguing that she only needed to renew her license. She purportedly pulled away and screamed for people in a nearby residence to help her. The deputy feared he was losing his grip on the suspect and heard people from the residence coming out. The deputy said he guided the woman to the ground and held her there with his knee in the small of her back, then only by the handcuffs until another deputy arrived. The woman said she was cooperative when he suddenly “body slammed” her to the ground. She reported that she could not breathe while he had his knee on her back. The investigating sergeant wrote:

We discussed the events leading up to the application of force, and how better communication with the suspect may have helped de-escalate the situation. The suspect stated [deputy] used profanity while speaking to her. During the debrief, [deputy] admitted he may have used profanity after de-escalation techniques were ineffective and the suspect became verbally and physically uncooperative. Based on the suspect’s statements and actions, the situation became tense and uncertain. I counseled Deputy [Name] after the incident in regard to maintaining a professional demeanor at all times.

The counseling for the deputy’s use of profanity was documented in a performance log entry. The captain adjudicated the use of force as objectively reasonable and consistent with Department policy. We categorically disagree. This use of force was unnecessary and excessive. The deputy was nine inches taller and outweighed the *handcuffed* female suspect by 78 pounds. He should have slowed things down and de-escalated the incident instead of using any force, let alone a takedown.

- **P-2.** A deputy responded to a call of a robbery just occurred in which the suspect yanked a gold chain off the neck of the victim. The deputy reported that he saw a man who “exactly” fit the description of the robbery suspect (male Black, red hat, red shirt, and black pants). The deputy detained the man and ordered him to place his hands on the hood of his car. The man admittedly was uncooperative and told the deputy to “fuck off.” The deputy wrote in his report:

Due to the fact I was alone, in a not law enforcement friendly area, I felt I needed to gain control of the suspect immediately or a serious fight would follow. Knowing from training where the head goes, the body will follow I used my hand forming a “V” with my thumb and other fingers and pushed the suspect by the neck just under his jaw upwards over the right front fender onto the hood of my patrol car. I knew causing the suspect’s head to move up and backwards forcefully would cause him to lose balance and allow me to control him. At no time did I squeeze my hand or attempt in any way to restrict airflow for the suspect. I kept my hand open in the “V” formation at the base of the jaw just below the mandibular angle.

The deputy told the man to “put his hands on the fucking hood” of the patrol vehicle. When the man reduced his level of resistance, the deputy used control holds and handcuffed him. As the deputy was placing the suspect into the backseat of the patrol vehicle, the suspect allegedly tried to stand up, and a secondary use of force occurred, in which the deputy used the same control technique as the preceding use of force. It was subsequently determined the man was not the

robbery suspect. However, he was arrested for resisting arrest and taken to the hospital where he refused treatment for complained-of pain to his neck.⁴⁶

A supervisor was notified and responded to the scene immediately. He located an independent witness who had recorded the incident on her cell phone. She told the supervisor that she saw the deputy standing over the suspect, bending him backward over the hood of the patrol car and choking him while telling him to stop moving. The video shows the deputy with the man bent over the hood of the patrol vehicle. The deputy is holding the suspect by his neck with his right hand and yelling, "Put your hands on the fucking hood . . . turn around." The suspect breaks free from the deputy's grasp, stands up, and yells, "Somebody help; somebody help!" The deputy yells for the suspect to turn around, then grabs him, turns him around, and pulls his right arm behind him at an approximate 90-degree angle. The suspect turns toward the witness recording the incident and says, "Hey you got this on footage? You got this on footage?" When the suspect reaches for what appears to be a cell phone the witness yells for him to put it down because she is recording it. The suspect stops resisting, and the deputy handcuffs him and walks him to the patrol car. The deputy starts to place him in the vehicle as other deputies arrive, and then the suspect can be heard saying, "I'm so confused." The deputy reported that he walked the suspect to the back seat of his patrol vehicle and had him sit in the backseat. The suspect sat in the backseat with his feet out the door facing the deputy. The deputy forgot a large box was in the left footwell, so the suspect could not place his feet inside the patrol vehicle. According to the deputy, the suspect attempted to stand up several times, so he used force similar in nature to the initial use of force. The secondary use of force, which occurred in the patrol vehicle, was not captured on the video recording.

During the watch commander's recorded interview, the suspect alleged the deputy used profanity. An SCR was initiated and adjudicated as Should Have Been Different and a Performance Log was issued. In his review, the watch commander wrote that the deputy should have requested backup as soon as he saw a possible robbery suspect and not waited until there was a struggle. Then he commended the deputy:

Suspect [Name] matched the description of a robbery suspect. When Deputy [Name] attempted to detain Suspect [Name], he gave verbal orders to gain compliance. Suspect [Name] told Deputy [Name] to "fuck off." Suspect [Name] escalated the incident to what it became based on his own resistance to follow orders and his obvious lack of respect for law enforcement. Deputy [Name] used minimal force to control Suspect [Name] and place him in handcuffs. Deputy [Name] was commended for his restraint from the use of personal weapons. Deputy [Name] utilized an appropriate level of force to affect the arrest of Suspect [Name]. Therefore, it is my opinion the force utilized was appropriate based on the suspect's actions.

In his review, the unit commander opined that there was nothing the deputy could have done to de-escalate or mitigate the need to use force and that there was no policy or training issue that needed to be addressed. The unit commander did not address the secondary use of force on the suspect after he was handcuffed. The division commander concurred with his adjudication.

The entire review process failed to identify multiple issues with this use of force. First of all, the deputy wrote that his actions were necessary because he was in a "not law enforcement friendly

⁴⁶ He was subsequently booked at Palmdale Station's jail.

area.” The deputy did not provide any specifics, statistics, or crime trends to support his general characterization of the local community. That stereotype, lacking any specificity, went through the management review unchallenged.

Likewise, the deputy’s tactics leading up to the use of force were so deficient they required a greater response than a log entry for profanity. The deputy believed he was contacting a robbery suspect, but chose to do so alone. When the man, who was simply walking down the street, refused to follow commands, the deputy should have maintained a position of tactical advantage, waited for backup, slowed down, opened communication, and tried to de-escalate the situation. Instead, he grabbed the man by the front of his upper neck with the web area of his hand, which has an extremely high degree of risk and in conflict with multiple Department policies including the following.

In cases where Sheriff’s Department personnel must take action to conduct lawful duties where there is not necessarily an immediate physical threat, members shall take into account and communicate (where applicable) tactical considerations predicated on preventing the use of force whenever possible. (MPP 3-10/000.00)

Department members shall only use that level of force which is objectively reasonable, and force should be used as a last resort. Department members should endeavor to de-escalate confrontations through tactical communication, warning, and other common-sense methods preventing the need to use force whenever reasonably possible. (MPP 3-10/005.00)

When force must be used, Deputies and staff shall endeavor to use restraint techniques when possible, and use only that level of force necessary for the situation. (MPP 3-10/005.00)

Auditors requested that a manager in charge of the Department’s training and defensive tactics assess this use of force and tell us if it appears to be consistent with Department standards. We specifically asked whether the Department trains the technique that was used here, and if so, for the written syllabus and training documentation for that training. The Training Unit responded and classified the deputy’s grab as an improvisational technique that is not taught by the Department.

- **P-14.** Several deputies responded to a radio call that a car had been stolen from a used car lot. Before the assigned deputy arrived, another deputy detained a suspect. On arrival, the assigned deputy was informed that the suspect (a transient) had been looking at cars in the sales lot. A few minutes later, there was a loud noise and when employees responded to the location of the noise they saw an employee’s car in a ditch with the suspect standing nearby. The deputy provided the following description as his probable cause to arrest the suspect:

Based on the fact [witness] only saw [suspect] and employees at the location and no one else was seen fleeing the vehicle or surrounding area, and the fact [witness] had seen [suspect] in the parking lot where [victim’s] vehicle was parked, I formed the opinion [suspect] had taken the vehicle without the owner’s consent and placed him under arrest.

No witnesses saw the suspect in the car and there was no physical evidence that he had been in the car, however. The deputy transported the suspect to Palmdale Station and escorted him into the jail. While searching the suspect and removing items from his pockets, the deputy gave the still-handcuffed suspect several commands that he did not follow. The deputy wrote that the suspect quickly raised his elbow toward the deputy’s head. The deputy drew his OC and warned the suspect he would be sprayed with OC if he tried to hit him. The suspect stopped moving, so the

deputy put his OC away. As the deputy continued his search, the suspect again raised his elbow toward the deputy's face, so the deputy drew his OC again. Then the suspect turned and tried to walk away. The deputy wrote:

Fearing Suspect [Name] was trying to create distance in order to fight with me or flee the booking cell, I pulled on his right arm, creating just enough space between the cell wall and his face. When I saw the space open between the wall and suspect's face, I pointed my OC spray directly at his face and sprayed an approximate two second burst of OC spray into his eyes, nose and mouth area.

The custody assistant who was standing a few feet away to assist in the booking wrote in her report:

As Deputy [Name] was conducting his search, Suspect [Name] was being uncooperative . . . twisting his upper torso left and right. Deputy [Name] told Suspect [Name] to stop moving around. Suspect [Name] didn't listen and kept moving his elbows and his body from side to side. Deputy [Name] then told him he was going to pepper spray him if he continued to not listen. Suspect [Name] continued to not listen, Deputy [Name] then took his OC spray from its holster and pointed it at Suspect [Name]'s face. Suspect [Name] complied and remained still at that moment which made Deputy [Name] decide to put his OC spray back in his holster. Seconds later Suspect [Name] began moving his torso and arms again. Deputy [Name] pulled his OC spray out and sprayed him in the face.

A supervisor responded and conducted a use-of-force investigation. That included obtaining a copy of the recording made by the jail video camera. The video showed the deputy directing profanity at the arrestee, so an SCR was initiated, but it only alleged the profanity. The SCR was classified as Should Have Been Different, and the deputy was issued a Performance Log Entry (PLE; this is a notation in the deputy's personnel file that is used by supervisors to inform annual performance evaluations) to "remind him of the policy" regarding courtesy.

The watch commander, station captain and NPD commander adjudicated the use of force as in policy and opined that it was minimal and consistent with the Department's training and policy. The watch commander wrote that "it appears Deputy [Name] would benefit from additional training and counseling. Palmdale Station Training Staff have been notified, a training plan will be created, to include STC [Standards and Training for Corrections] classes on critical decision making, custody force policy, anger management, and possibly DeVERT [De-escalation and Verbal Resolution Training]." The unit commander wrote that the deputy would be scheduled for additional training, including Custody Force Division Policy, Force Prevention, Anger Management, and Law Enforcement/Autism Awareness Classes, which we have been informed is an 8-hour replacement course for Critical Incident Training.

The Monitors categorically disagree with the assessment that this use of force was in policy. The video clearly shows the male deputy (5'9", 185 pounds) trying to search the handcuffed male suspect (6'1", 140 pounds) while the female custody assistant looks on. The suspect is fidgeting around, and the deputy tells the suspect what was later determined to be, "You turn around again and I am going to kick your ass! "Quit being a bitch!" and "Fuck it." The deputy then drew his OC canister, shook it, turned the suspect toward him and sprayed OC in his face. The handcuffed suspect posed no threat and was not an escape risk, as the deputy and custody assistant both stood in front of the only door to the holding cell. In fact, the jail form completed after the booking noted

that the man appeared to have difficulty following simple directions. The deputy's use of canned and boiler plate language—that is, fear of assault and possible escape—is baseless and refuted by the video.

Objective 1.2: Resistive Non-Threatening Behavior

There was one use of force (P-14) where a handcuffed suspect in a holding cell did not immediately do what the deputy told him to do during the pre-booking process. The deputy responded by saying, "You turn around again and I am going to kick your ass!" "Quit being a bitch!" and "Fuck it." When the man continued not responding, the deputy unnecessarily sprayed him with OC. The suspect was not aggressive nor was he combative; he merely was not quickly doing what he was told. The jail record noted that the man, who was a transient, appeared to have difficulty following simple directions.

Objective 1.3: Retaliatory Force

There were no indicia or audit evidence that deputies used retaliatory force in any of the cases in the audit sample. One could argue that P-14 involved retaliatory force, but after reviewing the investigation and watching the video it appeared to have stemmed from anger management concerns rather than retaliation.

Objective 1.4: Use of Force for Lawful Activity

There were four incidents in the audit population where a witness recorded at least some portion of the incident (L-39, P-2, P-7, and P-22). In every case, the person was allowed to record the incident without interference from any deputy.

Objective 1.5: Head Strike with Impact Weapon

There were no cases in the audit population where an impact weapon was used.

Objective 1.6: Use of Personal Weapons

While not specifically identified in the SA, the DOJ Findings Letter took particular issue with the AV deputies' use of facial punches and strikes, which come under the heading of "personal weapons" in the Department's use-of-force nomenclature. Specifically, the DOJ Findings Letter stated:

Although we found that force was used unreasonably in a number of ways, we focus below on two practices that were particularly prevalent: the use of unreasonable and/or retaliatory force against handcuffed individuals and the unnecessary use of fist strikes to the head and face of handcuffed individuals. Oftentimes this occurred when the deputy was transporting a handcuffed arrestee to the station in a patrol car. (Page 29)

LASD's Deputy Field Operations Manual and Defensive Tactics Manual states that "personnel are discouraged from striking an attacker's head with a fist," and encourages deputies "to use an open hand palm heel strike to lessen the potential of cutting injuries."

Deputies used personal weapons in eight cases (11%; L-35, L-39, L-44, P-3, P-6, P-13, P-16, and P-17). One of those cases involved an elbow strike (P-17), and the rest involved deputies punching a suspect in the face. Auditors found the force used in all these cases to be objectively reasonable and consistent with LASD use-of-force policy. However, there were no indicia that "striking an attacker's head with a fist" was being discouraged or that the "use of an open hand palm heel strike" was being encouraged. In fact, none of the adjudications even mentioned the Department's training standard, which states that the use of palm strikes reduces the level of injury to both the suspect and involved deputy. While none of the deputies in these incidents were injured, we have previously audited several cases where deputies have broken their hands striking suspects with a closed fist.

Recommendation 3: The Department should enforce its training standard discouraging the use of facial punches and encouraging the use of palm strikes in those cases where personal weapons are deemed necessary.⁴⁷

2. MONITORS' FINDINGS OBJECTIVE 1: USE OF FORCE

Metric: *At least 90% of the NCI, Category 1, and Category 2 use-of-force incidents are assessed as compliant with SA Paragraphs 102, 104, 105, 106g, and 107.*

Finding: The Department is in compliance with SA Paragraphs 102, 104, 105, 106g, and 107. Auditors found that 69 of the 73 use-of-force cases in the audit sample (95%) were consistent with the requirements of these paragraphs.⁴⁸

Metric: *The Department takes appropriate action on any violation of the non-use-of-force provisions of Paragraph 106 (filming law enforcement activity) that occurred in one of the audited use-of-force investigations; and,
The Department takes appropriate action on any violation of the non-use-of-force provisions of Paragraph 106 that was identified by the Monitors.*

Finding: The Department is in compliance with SA Paragraph 106. There were four cases in the audit sample where community members recorded an incident on their cell phones. In none of those cases did any Department member discourage them from photographing or recording the incident.

⁴⁷ On July 21, 2021, auditors advised the NPD Chief and members of the Department's Training Unit of this finding, and they indicated it would be addressed.

⁴⁸ L-4, L-40, P-2, and P-14 were inconsistent with the requirements of these paragraphs.

OBJECTIVE 2: AVOIDING FORCE AND DE-ESCALATION

The following material from the SA establishes the requirements for this objective.

LASD agrees to . . . use force as a last resort and de-escalate the use of force at the earliest possible moment. (SA Page 24 [Preamble to use-of-force chapter])

Deputies shall use advisements, warnings, and verbal persuasion, when possible, before resorting to force; and de-escalate force immediately as resistance decreases. (Paragraph 103).

The Department Manual also contains guidelines that are relevant for de-escalation and avoiding force.

Department members shall only use that level of force which is objectively reasonable, and force should be used as a last resort. Department members should endeavor to de-escalate confrontations through tactical communications, warnings, and other common-sense methods preventing the need to use force whenever reasonably possible.

When force must be used, Deputies and staff shall endeavor to use restraint techniques when possible, and use only that level of force necessary for the situation. (MPP 3-10/005.00 Force Prevention Principles)

Verbal Warning

Unless it would compromise officer safety or is impractical due to circumstances, a verbal warning of the intended use of the TASER shall precede the activation of the device in order to:

- *Provide the individual with a reasonable opportunity to voluntarily comply; and*
- *Provide other sworn personnel and individuals with a warning that a TASER may be activated.*

The fact that a verbal and/or other warning was given or reasons it was not given shall be documented in any related reports. (MPP 5-06/040.95 Electronic Immobilization Device [TASER] Procedures)

1. MONITOR ACTIVITY

Department policy clearly recognizes that, when practical, a deputy's ability to slow down evolving situations and use of tone, demeanor, command presence, and persuasion can often reduce and at times eliminate the need to use force. Unfortunately, there is no way to identify incidents that occurred during the audit period where AV deputies successfully avoided the use of force using these de-escalation techniques. So, this audit can only review the 73 uses of force in the audit population to determine whether reasonable efforts were made to de-escalate the situation before force was used and if force was de-escalated as the suspect's resistance decreased.

Objective 2.1: Advisement, Warning or Verbal Persuasion

Deputies used advisements, warnings, or verbal persuasion in 37 cases in an effort to de-escalate the situation before using force. In three of those 37 cases, the deputies made multiple efforts to defuse the situation (L-13, L-27, and P-23).

After careful review of the reports and documentation, we concluded there was no realistic opportunity to use advisements, warnings, or verbal persuasion in 30 of the remaining 36 cases. But in six cases, the documentation indicates there were opportunities to try and deescalate situations before using force.

- **L-4.** A male deputy (25 years old, 5'9", 180 pounds) was on patrol when he saw a woman (5'10", 180 pounds) sitting in a parked vehicle that had been reported stolen. The deputy tried to detain her at gunpoint, but she walked away. He yelled for her to stop and put her hands in the air, but she continued walking then running away. A very brief foot pursuit ended when a Parks Bureau deputy blocked her path with his patrol car. The deputy chasing her said she turned toward him and took a fighting stance with fists clenched. He told her to stop and put her hands in the air, but she kept advancing. When she was five feet away, the Parks Bureau deputy reached out and was about to take control of her arms when the deputy who had been chasing her deployed his Taser without warning. Two deputies were on scene, and they had a numerical and tactical advantage. Instead of deploying the Taser, the deputy should have tactically repositioned and given a Taser warning in an attempt to deescalate the situation.
- **L-26.** A deputy took a man (44 years, 6'3", 240 pounds) into custody for being under the influence of a controlled substance without incident and transported him to Lancaster jail. In the station parking lot, the man had an apparent mental health episode and began yelling and kicking the patrol car door. The arresting deputy, two sergeants, and two other deputies escorted the subject into the station jail without incident. They entered a holding cell where one of the sergeants stood guard with a Taser, while the deputies laid the man down and removed his handcuffs. Everyone but the sergeant had exited the cell when the man suddenly jumped up and advanced on the sergeant. The sergeant told him to stop, but he lunged forward, so the sergeant deployed the Taser (1st Taser). The man fell to the floor, and deputies reentered the cell to handcuff him so he could be transported for medical treatment. The sergeant ordered the subject to take his hands out from under him and remain on the ground, but the man pushed up and tried to stand again. The sergeant deployed the Taser again (2nd Taser) causing the man to lie back on the floor with his hands behind his back. Deputies applied handcuffs, and then allowed the man to lie on his back because of the Taser darts in his chest. The suspect seemed to be lucid at that point, so the sergeant with the Taser explained that they were trying to get him medical treatment. As the sergeant and several deputies were standing nearby discussing how to transport the suspect, the sergeant heard one of the deputies yell "watch out" and simultaneously felt the suspect kick him in the knee. The sergeant immediately reacted and activated the Taser (3rd Taser).

The Taser log shows the first Taser application lasted seven seconds. Twenty-three seconds later it was activated again for five seconds. Eight minutes after that, it was activated a third time and lasted six seconds. Before the first application, the suspect was given multiple commands and told to stay where he was before the Taser was deployed. However, he was not warned of the intended Taser use. He was not given commands or warnings before the second and third Taser applications and any rationale for not doing so should have been addressed in the sergeant's report.

- L-33.** Two deputies responded to a domestic violence radio call regarding a man and woman in front of a house yelling and pushing each other. As the deputies conducted their initial investigation, a man ran up to the house. The man immediately became uncooperative, yelling that it was his house. Believing the man may have been involved in the domestic incident, the deputies detained and handcuffed him without incident. As additional deputies arrived, the man was placed in a patrol vehicle. As they were doing that, two of the man's brothers and two more women came out of the house and began yelling at the deputies. One of the men grabbed one of the women and pulled her back into the house, closing the door after them. Concerned for her safety, the sergeant told two deputies to enter the house, forcibly if necessary, and ensure the woman's safety. While this was occurring, the man in the patrol car kicked one of the windows, shattering it, and started climbing out. The sergeant ran to the car and told the deputy who was guarding the man to deploy OC to prevent his escape. The deputy did as directed and, without warning, sprayed the suspect with OC. The suspect was handcuffed, and his upper body was protruding through the broken window of the patrol vehicle. The officers should have warned the suspect and tried to de-escalate him before spraying him with OC.
- L-40.** A male deputy (6'1", 210 pounds) detained and handcuffed a female suspect (5'4", 132 pounds). As he walked the handcuffed suspect to his car, she purportedly became uncooperative and began arguing with him about the arrest. She allegedly tried to pull away from the deputy and screamed for people in a nearby residence to help her. The deputy stated he feared he was losing his grip on the suspect and heard people from the residence coming out, so he guided the woman to the ground and held her there with his knee in the small of her back, then only by the handcuffs until another deputy arrived. The woman said she was cooperative when the deputy suddenly "body slammed" her to the ground. In any event, there was ample opportunity to try and de-escalate the situation. As the investigating supervisor wrote in his report, he debriefed the incident with the deputy discussing "the events leading up to the application of force, and how better communication with the suspect may have helped de-escalate the situation."
- P-2.** The deputy decided to contact a man he believed to be a robbery suspect while he was alone and without waiting for back-up. When the man, who was simply walking down the street, refused to follow the deputy's commands, the deputy should have maintained a position of advantage, waited for backup, slowed down, opened communication, and tried to de-escalate the situation. Instead, he grabbed the man by the neck area to control him.
- P-14.** The deputy was searching a handcuffed suspect in a holding cell. The man would not follow direction and kept fidgeting. Ultimately, the deputy lost his temper and began cursing at the suspect and sprayed him in the face with OC. The deputy wrote that he feared the suspect was going to assault him or attempt to escape, but there was no reasonable basis for the deputy's purported fear.

There were nine more cases in which a deputy did not give a warning prior to deploying a Taser (L-2, L-14, L-22, L-28, L-36, L-39, L-46, P-5, and P-13). In all nine of those cases, the reports contained sufficient documentation that exigent circumstances existed that precluded issuing a verbal warning before deploying the Taser.

Objective 2.2: De-escalation of Force

In one case (L-40) where a deputy failed to use adequate de-escalation techniques before using force, the male deputy (6'1", 210 pounds) also failed to de-escalate the force he was using on a much smaller handcuffed woman (5'4", 138-pounds) as her resistance decreased. The deputy said he guided the woman to the ground and held her there with his knee in the small of her back and then only by the handcuffs until another deputy arrived. The woman and a witness stated the deputy held her on the ground with his knee on her back even though she screamed several times that she could not breathe. Regardless of which version reflects the actual events, the deputy should have **immediately** rolled the woman onto her side, then to a seated position.

2. MONITORS' FINDINGS OBJECTIVE 2: DE-ESCALATION

Metric: *In at least 90% of the NCI, Category 1, and Category 2 use-of-force incidents, deputies used advisements, warnings, verbal persuasion, and/or other de-escalation tactics, when possible, before resorting to force, and they de-escalated the use of force immediately as resistance decreased.*

Finding: The Department is in compliance with SA Paragraph 103. Appropriate pre- and post-use-of-force de-escalation measures were either impractical or utilized in 67 of the 73 incidents (92%), which exceeds the 90% threshold for NCI, Category 1, and Category 2 incidents.

OBJECTIVE 3: REPORTING USE OF FORCE

The following SA paragraphs establish the requirements for this objective.

LASD agrees to continue to require deputies to report all uses of force above un-resisted handcuffing. LASD shall continue to require AV deputies to completely and accurately describe the force used or observed, including describing in detail the actions of the suspect necessitating the use of force and the specific force used in response to the suspect's actions, any injuries or complaint of injuries, and any medical treatment or refusal of medical treatment. (Paragraph 108).

The use of force reporting policy shall explicitly prohibit the use of conclusory statements without supporting detail, including "boilerplate" language in all statements and reports documenting use of force. Deputies shall be held accountable for material omissions or inaccuracies in their use-of-force statements, which may include being subject to disciplinary action. (Paragraph 109).

The Department Manual also requires that use-of-force reports contain specific information.

Each member reporting force in a report or memorandum shall describe in detail the force incident, including the tactics leading up to the use of force, the actions of the suspect necessitating the use of force, and the specific force used in response to the suspect's actions. Any injuries or

complaint of injuries, and any medical treatment or refusal of medical treatment, shall be documented in the first report, supplementary reports or memoranda. (MPP 3-10/100)

LASD agrees to continue to require deputies who use or observe force to notify their supervisors immediately following any reportable use of force incident or upon receipt of an allegation of unreasonable or unreported use of force by any deputy. Deputies who use or observe force and fail to report it shall be subject to disciplinary action, up to and including termination (Paragraph 110).

3. MONITOR ACTIVITY

Auditors reviewed all reports for use-of-force incidents that occurred during the audit period. Additionally, auditors reviewed reports for incidents that, in our experience, have a tendency to involve the use of force. Specifically, auditors reviewed all Watch Commander Logs, civil claims, and lawsuits that occurred in the AV during the audit period. Auditors also reviewed reports made during the audit period that involved a vehicular and/or foot pursuit as well as obstruction arrests.

Objective 3.1: Unreported Use of Force

Auditors conducted an extensive review of documents that may contain evidence of an unreported use of force. In every case, any mention of force being used resulted in the initiation of a use-of-force investigation that was included in the audit population.

Objective 3.2: Supervisory Notification

Auditors reviewed every one of the 73 reports in the audit population to determine whether a supervisor was notified promptly and responded to the scene in a timely manner. In every case, a sergeant was either already on scene when the use of force occurred or was notified promptly and immediately responded to the location.

Objective 3.3: Completeness of Deputy Reports

One report lacked completeness in a material area.

- **P-2.** A deputy responding to a robbery call saw a possible suspect and decided to detain him by himself without waiting for backup. The man refused to place his hands on the hood of the patrol vehicle. The deputy grabbed the man's arm and wrist, and the man pulled away. So, the deputy grabbed him by the neck and pushed him over the hood of his patrol vehicle. The deputy wrote that he used this high-risk technique, "Due to the fact that I was alone, in a not law enforcement friendly area, I felt I needed to gain control of the suspect immediately or a serious fight would follow" (emphasis added). The deputy did not provide any specifics, statistics, or crime trends to support his general characterization of the local community.

Objective 3.4: Lack of Supporting Detail or Use of Boilerplate Language

Three cases lacked detail in a material area and/or relied on unsupported boilerplate language to justify a deputy's actions.

- **P-2:** A deputy who decided to detain a robbery suspect alone justified his use of a high-risk control technique by writing in his report, "Due to the fact that I was alone, in a not law enforcement friendly area, I felt I needed to gain control of the suspect immediately or a serious fight would follow" (emphasis added). The unsupported characterization of a community as high risk constitutes boilerplate language.
- **P-14:** A 5'9", 185-pound male deputy was searching a 6'1", 140-pound male arrestee in a holding cell. The deputy wrote in his report that the man quickly raised his elbow toward the deputy's face, turned his body and tried to walk away. The deputy said he feared the man was preparing to fight or flee from the cell, so he deployed his OC to the man's face. But a review of the holding-cell video showed the arrestee was not an escape risk with the much larger deputy standing right there and a custody assistant standing a few feet away.
- **P-23:** At the termination of a vehicular pursuit for a reported stolen car, the 16-year-old driver and his four friends refused to exit the car. After several minutes and multiple unsuccessful attempts, including the use of the public address (PA) system, to talk the subject and his cohorts out of the vehicle, a sergeant directed the deployment of a 40mm less-lethal round to break the windows. The sergeant who directed the use of force also conducted the use-of-force investigation, and included the following in his rationale for the deployment of the 40mm round:

At the end of the pursuit, the occupants remained inside the vehicle, displayed a defiant/hostile behavior, and formulated a possible escape or attack against deputies. The overall behavior created a high-risk situation and posed a threat to the public and deputies. (emphasis added)

The suspects were "high fiving" each other and passing a bottle of alcohol, and the driver suspect kissed his girlfriend. There was no evidence presented to support the notion that the occupants were formulating a plan to attack the deputies or escape.

Objective 3.5: Material Omission in Reports

There was one case in which material information was left out of a deputy's report.

- **P-2.** A deputy decided to detain a robbery suspect alone. The man, who readily admitted in his recorded use-of-force interview that he was uncooperative, told the deputy to "fuck off." The deputy grabbed him by the arm then by the neck as he tried to pull away. The deputy justified that technique in his report writing:

Knowing from training where the head goes, the body will follow I used my hand forming a "V" with my thumb and other fingers and pushed the suspect by the neck just under his jaw upwards over the right front fender onto the hood of my patrol car. I knew causing the suspects head to move up and backwards forcefully would cause him to lose balance and allow me to

control him. At no time did I squeeze my hand or attempt in any way to restrict airflow for the suspect. I kept my hand open in the 'V' formation at the base of the jaw just below the mandibular angle.

There was no information in the use-of-force investigation regarding that being taught in a Department school or it being an authorized control technique.

4. MONITORS' FINDINGS OBJECTIVE 3: REPORTING USE OF FORCE

The use-of-force compliance standards do not include a quantitative metric to measure compliance with the SA requirements for reporting the use of force (Paragraphs 108 and 110) or the use of conclusory statements and material omissions (Paragraph 109). While these requirements are part of the compliance metrics for supervisory investigations and management reviews, they need their own quantitative metric to assess compliance with these paragraphs.

Recommendation 4: The parties need to establish a compliance metric for the SA requirements that deputies report all uses of force, that they not use conclusory statements or "boilerplate" language, and that reports not contain material omissions.

While the parties have not agreed on the criteria to assess compliance with the aforementioned SA paragraphs, the overwhelming evidence shows the Department to be compliant with these provisions. These findings must be tentative until an actual metric is established, but it would be unfair to require that the Department wait until the next audit to achieve initial compliance in areas where they are obviously compliant now.

Requirement: *Deputies are required to report all uses of force above un-resisted handcuffing and notify a supervisor immediately and any deputy who use or observe force and fails to report it shall be subject to disciplinary action (Paragraphs 108 partial and 110).*

Finding: The Department is in compliance with the reporting requirements of Paragraphs 108 and 110. Auditors conducted an extensive review of reports that have a tendency to involve the use of force and found no indicia of unreported force. In every case, a supervisor was either on scene or responded to the scene immediately. There were no cases in which a deputy failed to report a use of force, so we were unable to make a finding on the requirement that such failures result in disciplinary action.

Requirement: *Reports must describe in detail the suspect's actions necessitating the use of force (SA Paragraph 108 partial); not use unsupported conclusory statements or boilerplate language; and not contain material omissions or inaccuracies (Paragraph 109).*

Finding: The Department is in compliance with SA Paragraphs 108 (partial) and 109. In 70 of the 73 cases (96%), the reports met the standards established in the SA. That compliance percentage would most likely exceed any metric established by the parties.

OBJECTIVE 4: SUPERVISORY INVESTIGATION

The following SA paragraphs establish the requirements for this objective.

For all reportable uses of force, the investigating supervisor shall conduct a thorough investigation. This investigation will require supervisors to:

- a. Respond to the scene, examine the subject of the force for injury, interview the subject for complaints of pain, and ensure that the subject receives medical attention from an appropriate medical provider;*
- b. Identify and collect all relevant evidence;*
- c. Canvass for, and interview, civilian witnesses;*
- d. Collect statements from witness deputies; and*
- e. Review all deputy use-of-force statements for adequacy, accuracy, and completeness. (Paragraph 111)*

Following the investigation, each supervisor shall continue to complete a supervisory investigation documented in a "Supervisor's Report on Use of Force." This Report shall include:

- a. The supervisor's narrative description of the incident, including a complete and comprehensive description of the evidence that either justifies or fails to justify the deputy's conduct based on the supervisor's independent review of the facts and circumstances of the incident [emphasis added];*
- b. Documentation of all evidence;*
- c. Identities of all deputies witnessing the force;*
- d. The investigating supervisor's evaluation of force, including a determination of whether the deputy's actions appear to be within LASD policy and consistent with state and federal law, and an assessment of the incident for tactical and training implications;*
- e. Documentation of any training or tactical concerns, and/or corrective action taken or recommended. (Paragraph 112)*

1. MONITOR ACTIVITY

Objective 4.1: Injury to Subject

Auditors assessed each use-of-force package to determine whether a supervisor and/or the watch commander interviewed the subject of the use of force to determine if they were injured and if they received prompt medical attention.

In 35 of the 36 NCI and Category 1 cases, the subject sustained no reportable injury. (By definition, NCI and Category 1 cases cannot have a force-related injury.) The one exception was the following situation.

- **L-30.** Deputies responded to a domestic disturbance call where the suspect trashed his mother’s home, breaking an aquarium and window. Deputies located the intoxicated suspect in the garage. The man did not follow the deputies’ instructions and pulled away when they tried to handcuff him. Four deputies took him to the ground and used control techniques to handcuff him. A sergeant responded to the scene immediately to conduct an investigation. The sergeant wrote that after the use of force, three deputies noticed blood on their hands or clothing, but the deputies did not include anything in their reports about the blood. The sergeant wrote that he did not see any injuries on the suspect but that the blood was “presumably” from the suspect. However, he did not have the suspect medically examined and never identified the source of the blood.

In all 37 Category 2 cases, the investigation documented that a supervisor and/or watch commander interviewed the subject to determine whether they were injured, and they received prompt medical attention for any injury, including very minor and complained of injuries. The investigations also documented that LA County Fire personnel responded to the scene when appropriate, subjects were transported for medical treatment when necessary, and the medical treatment forms from the medical providers were included with the investigation.⁴⁹ There was one case in which the source of the injury could not be determined.

- **P-3.** The suspect in a Category 2 use of force was medically treated for a fractured nose. The investigation could not determine whether he sustained the fracture during the use of force with the deputy or before deputies arrived when his father punched him in the face while defending himself. The investigation documented two independent witnesses’ statements and physical evidence, which led the sergeant to conclude that the suspect’s nose was fractured when he was punched by his father. Nevertheless, IAB was notified of the fracture but chose to not respond.

Objective 4.2: Independent Investigation

Unlike the SA’s requirements for public complaints, no SA provision prohibits a supervisor who directed a use of force from conducting the use-of-force investigation as long as a personnel complaint was not involved. A specific SA requirement notwithstanding, Department policy provides guidance on the standard that is to be used for investigating Category 1 and 2 uses of force which is the following.

After interviewing a suspect in incidents involving Directed Force, the Watch Commander/Supervising Lieutenant shall determine who should complete the initial investigation. When a Unit supervisor who did not direct the force is available, that non-involved supervisor should complete the initial investigation. If a non-involved supervisor is not available, the Watch Commander/Supervising Lieutenant should consider the totality of the initial factors, including the severity of the force and the suspect’s interview in determining whether the supervisor who directed the force should complete the initial investigation or, if necessary, the initial investigation should be completed by the Watch Commander/Supervising Lieutenant. In instances in which a non-involved supervisor is assigned to complete the initial investigation, the supervisor who

⁴⁹ LA County Fire does not provide the Department with its treatment forms due to the Fire Department’s interpretation of confidentiality and HIPAA restrictions.

directed the force shall prepare a supplemental report, or memo, detailing their actions for inclusion with the force package. (MPP 3-10/110.00)

The North Patrol Division Policy governing the investigation of a Non-Categorized Force Incident (very minor force, no injury, no personnel complaint) allows a sergeant who witnessed or directed a use of force to also conduct the related use-of-force investigation.

Sergeants who witness, plan, or direct the NCI can conduct the inquiry and complete the NCI form. Sergeants who used force during the NCI shall not conduct the inquiry and shall not complete the NCI form. (North Patrol Division Order 17-01)

Sergeants were on scene at 31 of the 73 use-of-force incidents (42%). Of those cases, there were five incidents (16%) in which a sergeant used force (L-9, L-19, L-26, L-33, and L-41). Every one of those cases was investigated by an uninvolved supervisor (100%).

There were 15 NCI cases in the audit population. A sergeant was on scene in nine of those cases, and in two of those nine cases, two sergeants were present. In four of those nine cases, a sergeant who directed the use of force also completed the use-of-force investigation. It is significant that in the two cases where there were two sergeants on scene, the sergeant who directed the force did not conduct the investigation (see Table 2).

TABLE 2			
NCI USES OF FORCE WITH SERGEANT AT SCENE			
AUDIT NO.	SERGEANT		
	PRESENT	INVOLVED	INVESTIGATE
L-1	Yes	Direct	Yes
L-3	Yes	Direct	Yes
L-5	Yes 2	1 Witness	Yes
L-7	No	NA	NA
L-17	No	NA	NA
L-18	No	NA	NA
L-20	Yes	Witness	Yes
L-23	Yes 2	1 Witness	Yes
L-24	Yes	Witness	No
L-29	No	NA	NA
L-42	Yes	Direct	No
L-43	Yes	Direct	Yes
P-9	Yes	Direct	Yes
P-15	No	NA	NA
P-20	No	NA	NA

There were 14 other cases where a supervisor directed a use of force.⁵⁰ One of those cases (P-23) involved a supervisor directing the deployment of a 40mm projectile to break a car window (Category 2 use of force) and also conducting the use-of-force investigation. The watch commander and station captain recognized that conflict in their reviews, noting that he was the only sergeant working on that shift and that he was working a double shift on overtime. Auditors reviewed the shift deployment records and found that another sergeant was scheduled to work that shift, but our follow-up with the Compliance Unit showed the second sergeant had been granted an early end-of-watch because he too was working a double shift.

There were two incidents where involved sergeants also participated in the investigation.

- **L-15.** Two deputies and a sergeant responded to an assault with a deadly weapon (ADW) call at a residence and detained the female suspect. The suspect initially cooperated, but once a single handcuff was applied she pulled away and began yelling at the deputies. The sergeant directed the deputies to take her to the ground, which they did and handcuffed her. The suspect did not sustain any injury during the use of force. A different sergeant was assigned to conduct the investigation, but he became involved in a tactical incident and was unable to respond to the scene. So the sergeant who directed the force interviewed the witnesses and submitted a report on their statements. The reviewing watch commander wrote in his report that the sergeant who directed the use of force did not investigate it, which is inaccurate because interviewing witnesses is a significant part of any investigation. While it may have been necessary, the watch commander should have accurately reported what occurred and the reason(s) for it.
- **L-27.** A deputy responded to a radio call regarding a man who appeared to be under the influence of a controlled substance was creating a disturbance. The man was holding a two-foot-long stick and would not follow the deputy's directions. The deputy asked him to drop the stick, but the suspect refused; the deputy requested backup, and the suspect walked away from the initial location. The suspect was moving toward a busy street, so the deputies used control holds to detain him. But when they tried to handcuff him, the man clasped his hands tightly in front of his body. The deputies continually tried to de-escalate the situation, but the suspect would not cooperate. Due to his resistance, the fact he had not been searched for weapons, and their proximity to the busy street, the sergeant told a deputy to be prepared with a Taser should it be necessary. The sergeant and the deputy gave several Taser warnings, but the suspect continued to actively resist their efforts to move him (and them) away from the roadway. Finally, the sergeant directed the deputy to tase the suspect in order to end the high-risk incident as quickly as possible with no serious injury. The deputy deployed the Taser, and the suspect was taken into custody. A different sergeant conducted most of the investigation, but the sergeant who directed the use of force interviewed two witnesses at the scene, neither of whom saw the use of force.

⁵⁰ Non-NCI cases with supervisor at scene: L-2, L-6, L-9, L-13, L-15, L-19, L-27, L-28, L-32, L-33, L-34, L-39, P-4, and P-23.

Objective 4.3: Use-of-Force Investigations With Allegations of Misconduct

Auditors examined each use-of-force package to identify those that contained at least one substantive allegation of misconduct.⁵¹ To avoid making compliance assessments based on limited data, the scope of this objective was limited to determining if an SCR was initiated when required, if the SCR identified the substantive allegations, and if the investigation was assigned to an uninvolved supervisor. The MT conducts a separate and much more thorough audit of public complaints.

Fifteen of the 73 investigations (21%) contained a substantive allegation of misconduct—eight in Palmdale,⁵² and seven in Lancaster.⁵³ An SCR was initiated in all eight of the Palmdale cases. However, only two (L-4 and L-45) of the seven Lancaster cases resulted in the initiation of an SCR. An SCR was not initiated for the following five cases, which is a critical deficiency:

- **L-6.** Deputies responded to a radio call of a man fighting with a woman and took the man into custody for domestic violence and the woman for being too intoxicated to care for herself. Once in the patrol vehicle the woman began kicking the door frame, so a deputy opened the window to keep it from being broken. The woman spit in his face, yelled “fuck you,” and called him a racist. During her interview with the watch commander, she alleged one of the deputies sprayed her with OC and was “talking all kind of racist stuff.” The watch commander acknowledged the allegations but did not initiate an SCR because he opined that it did not occur.
- **L-21.** Two deputies responded to a radio call of an assault with a deadly weapon involving a civil dispute. One deputy talked to the male caller while the other deputy talked to the woman who was the subject of the call. The woman said, “When I call 911 no one shows up, but when a White man calls 911 everyone shows up.” The senior deputy asked her twice to walk toward the patrol vehicle, and when she refused he told his partner to detain her. A use of force occurred during which four deputies took her to the ground using control holds and applied a hobble restraint. During her interview with the watch commander, she admitted to “running her mouth” but said she did not resist. When a deputy went to handcuff her, she asked what he was doing. Then the deputies threw her to the ground and a deputy put his elbow across her neck to hold her down while they handcuffed her. The deputies denied her allegation and the man who called said it did not occur, so the watch commander did not initiate an SCR.
- **L-33.** Deputies responding to a domestic violence call contacted several women in front of the house. One of the women had blood on her face. Simultaneously, a man ran up and tried to interfere with the deputies. The deputies detained the man and placed him in the patrol vehicle without incident. As that was occurring, the man’s brother grabbed one of the women and pulled her into the house. The deputies forced entry into the house, secured the woman, and detained the second man. Meanwhile, the man in the patrol vehicle kicked out one of its windows, shattering it, and then he started to climb out. A sergeant ran to the car and told a deputy to deploy OC to prevent the man’s escape, which the deputy did. Another use of force occurred, involving the

⁵¹ This objective was limited to determining if an SCR was initiated for a substantive allegation. Assessing the quality of complaint investigations is done in the MT’s audit of public complaints.

⁵² Palmdale UOF cases with alleged misconduct: P-1, P-2, P-3, P-13, P-14, P-16, P-17, and P-22.

⁵³ Lancaster cases with alleged misconduct: L-4, L-6, L-21, L-33, L-34, L-40, and L-45.

second man. When the second man was interviewed by the watch commander, he alleged the force used on him was excessive and retaliatory because the deputies were upset that his brother had kicked out the patrol car window. The investigating sergeant and watch commander both acknowledged those allegations but did not initiate an SCR. The captain concurred with their decision, writing: "I concur with [sergeant's] assessment that [suspect's] allegations are baseless and refuted by witness video of the incident. Further investigation of [suspect's] allegations is not required." The fact that the video does not refute the allegation notwithstanding, the man clearly alleged misconduct, and an SCR should have been initiated.

- **L-34.** A brief use of force occurred when deputies arrested a woman for elder abuse. During her interview with the watch commander, the woman alleged that a deputy called her a "bitch." The watch commander wrote, "The suspect stated the deputy called her a 'bitch' because she was hungry. I spoke with the deputy who stated he was polite and kind with the suspect the entire time. He also stated he has had a rapport with the suspect in the past during prior contacts with her. There is no evidence in support of the suspect's allegation. I do not believe any additional investigation is required." The watch commander did not ask whether anyone witnessed the interaction, and his conclusion shows an automatic preference for the deputy's statement in violation of SA Paragraph 131. An SCR should have been initiated.
- **L-40.** A patrol deputy conducted a traffic stop on a vehicle displaying plates belonging to another vehicle. The deputy handcuffed the suspect and began walking her toward the patrol car when the deputy said she became uncooperative and began yelling for people in the houses nearby to help her. The deputy feared he was losing his grip on the suspect and heard people from the residence coming out. The deputy said he guided the woman to the ground and held her there with his knee in the small of her back, then only by the handcuffs until another deputy arrived. During the watch commander's interview, she said the deputy was "nasty" with her as soon as she got out of the car and that he used profanity. When she questioned him on the way to the car, he "body slammed" her to the ground. She clearly alleged the deputy used excessive force and directed profanity at her. The investigator wrote that he debriefed the incident with the deputy, discussing "the events leading up to the application of force, and how better communication with the suspect may have helped de-escalate the situation." The deputy admitted using profanity, but an SCR was not initiated.

Objective 4.4: Quality of Investigations

Auditors reviewed each investigation for completeness and to determine whether the investigation contained adequate information and sufficient detail for management to reach a reliable conclusion. Specifically, auditors' assessment of investigative completeness included but was not limited to the investigating supervisor's actions in the following areas:

- Identification and collection of evidence, including any recordings;
- Canvas for and interview of witnesses;
- Collection of statements from deputies who witnessed but did not use force;
- Assessment of the involved deputies' statements;
- Documentation of deputies' attempts to resolve evolving incidents without using force by using time, tone, verbal persuasion, and warnings, whenever possible;

- Deputies' de-escalation of the force being used as the suspect's resistance decreases; and
- Preparation of a comprehensive use-of-force investigation report without conclusionary statements and/or the use of canned and boilerplate language.

Eight cases (11%) demonstrated a critical deficiency. Six of those eight classifications (75%) were because the supervisor did not initiate an SCR when the subject of the force clearly alleged significant misconduct.⁵⁴

- **L-4.** A patrol deputy tried to detain a woman who was sitting in a parked vehicle that was reported stolen. A very brief foot pursuit occurred, and then the woman ran into another deputy's patrol car. She purportedly turned and began advancing on the patrol deputy with her fist clenched. The patrol deputy told her to stop and put her hands in the air, but she kept advancing on him. When she was about five feet away, the patrol deputy deployed his Taser without warning. Simultaneously, the parks deputy was reaching out to grab the woman's arm, so he was able to guide her to the sidewalk after she was tased. The investigation did not examine why one deputy felt it was necessary to deploy a Taser when the other deputy felt a simple firm grip was sufficient. During the suspect's video-recorded watch commander's interview, she stated she raised her open hands to her shoulders, while holding her keys, to show them that she was trying to cooperate, and she said, "all right, all right all right." She was slugged in the face, tased, and flipped over. She also alleged that the deputy called her a "stupid back whore." MT Auditors requested and reviewed the SCR. The SCR indicates that the suspect alleged that the deputy punched her in the face and took her down to the ground. That in and of itself is not an allegation of misconduct and does not include her specific allegation, which was that the deputy called her a "stupid back whore," and though she submitted to arrest and had her hands raised, the deputy nonetheless punched and tased her.
- **L-6.** A woman arrested for public intoxication clearly alleged one of the deputies sprayed her with OC and was "talking all kind of racist stuff." The watch commander acknowledged the allegations, but did not initiate an SCR because he opined it did not occur.
- **L-21.** A woman arrested for assault with a deadly weapon alleged the deputies used excessive force when they threw her to the ground and a deputy put his elbow across her neck to hold her down while they handcuffed her. The deputies denied her allegation, and the man who called said it did not occur, so an SCR was not initiated.
- **L-33.** A man arrested for domestic violence alleged the force used on him was excessive and retaliatory because the deputies were upset that his brother had kicked out the car window. The investigating sergeant acknowledged those allegations but did not initiate an SCR.
- **L-34.** A woman arrested for elder abuse alleged the deputy called her a "bitch." The deputy denied the allegation, so an SCR was not initiated.
- **L-40.** A woman arrested for displaying someone else's plates on her car alleged the deputy used unnecessary force and directed profanity at her. The deputy admitted using profanity, but an SCR was not initiated for either allegation.

⁵⁴ Audit Numbers L-4, L-6, L-21, L-33, L-34 and L-40.

- P-14.** Deputies arrested a man for stealing a car, though there was little probable cause to support the arrest. In a cell at the jail, the deputy gave the still-handcuffed suspect several commands, which he did not follow. The deputy wrote that the suspect quickly raised his elbow toward the deputy's head, so he drew his OC and warned he would be sprayed with OC if he tried to hit him. The suspect stopped moving so the deputy put his OC away. As the deputy continued his search, the suspect again raised his elbow toward the deputy's face, so the deputy drew his OC again. Then the suspect purportedly turned and tried to walk away. The deputy wrote that he feared the suspect (still handcuffed and inside the jail) was going to fight or flee, so he deployed OC. The report from a custody assistant standing a few feet away was vague regarding any threat presented by the suspect. The incident was captured on the jail camera, and it does not support the notion that the suspect presented a threat. It did capture the deputy directing profanity at the arrestee, so an SCR was initiated but only alleged the profanity. The SCR was classified as Should Have Been Different, and the deputy was issued a PLE to "remind him of the policy" regarding courtesy. The investigating supervisor never challenged the inconsistency between the reports from the deputy and custody assistant; the deputy's use of boilerplate language—that is, a fear of assault and possible escape; or the inconsistency between the deputy's report and video recording.
- P-19.** Deputies responding to a disturbance call detained a suspect who was acting in a bizarre manner while under the influence of methamphetamine. The deputies tried to de-escalate the situation, but when they tried to handcuff the man, he became enraged and repeatedly assaulted the deputies. An assistance call was broadcast, and an extensive use of force occurred that involved several deputies and multiple Taser applications. The involved deputies immediately reported their use of force to the investigating sergeant, but none of them indicated that he was present during the force, and he did not submit a supplemental report. However, the watch commander checked the box indicating that the investigating sergeant witnessed the use of force. Auditors contacted the Compliance Unit, who looked into the matter and reported that the investigating sergeant was at the scene and was assigned to conduct the investigation due to a shortage of supervisors. However, the reports did not address or even acknowledge that an involved supervisor also conducted the use-of-force investigation.

Three cases had a non-critical deficiency.

- L-18.** Two deputies responded to a DUI/drugs traffic collision. The suspect was banging his head on the street, and several witnesses were trying to hold him to keep him from further injuring himself. The deputies and witnesses carried the suspect to a grassy area, and one deputy placed his knee on the suspect's back while the other held his arms. Paramedics responded, and the suspect was placed in soft restraints and transported on a gurney for MET. The DUI investigation identified three civilian witnesses, but they were not included or interviewed for the use-of-force report even though one of them recorded the incident on his cell phone and provided it to the investigator.
- L-30.** The investigating sergeant wrote that three of the deputies noticed blood on their hands or clothing after the use of force, but the investigation failed to document the source of the blood.
- P-13.** A deputy investigating a domestic violence incident followed the victim and her 5-year-old daughter to her house, where the woman pointed out the suspect, who was 5'11" tall and weighed 245 pounds. The deputy requested backup and three deputies responded. While the deputy waited for backup, the victim walked away from the deputy and entered the apartment, through a window, where the suspect was located. The deputies developed a tactical plan, and then knocked on the

door. The suspect yelled they could not enter without a warrant, but the victim opened the door. The suspect grabbed her and held her as a shield. An altercation ensued, and the suspect was eventually taken into custody. The investigation never addressed how the victim was able to walk away and enter a residence where she was taken hostage and used as a shield.

Objective 4.5: Timely Submission of Investigations

The Department Manual requires that a force package be submitted to Division within 35 days of an incident and to Discovery within 60 days, or it is considered overdue.⁵⁵ Additionally, the Department's risk management early-intervention systems are dependent on timely data entry into PRMS.

In our last audit we discovered that the use-of-force forms do not require the investigating sergeant to date when the investigation is submitted to the watch commanders. We recommended that the forms be revised to capture that information, but the Department has not done so. Without that information, there is no way to determine how long it took for the vast majority of the use-of-force investigations to be completed.⁵⁶

Recommendation 5: Once again, we recommend that the Department modify the use-of-force forms and/or process to capture the date an investigation is submitted to the watch commander and the dates managers approve the force package.

2. MONITORS' FINDINGS OBJECTIVE 4: SUPERVISORY INVESTIGATION

During our review of the compliance metrics for this objective, it became clear that those aspects of the metrics involving management review should be removed so the metric assesses compliance only with the adequacy of the supervisory investigation. With that in mind, the following definitions were used for the Monitors' findings in this objective (deletions lined out; additions in bold).

Investigation with Critical Deficiencies. The investigation was incomplete in that it did not address a **substantive** allegation(s) of misconduct or contained mistakes or omissions that cumulatively challenged the reliability of the investigation ~~and/or adjudication~~. Critical deficiencies may include failure to interview a key witness; failure to obtain a statement from the supervisor directing a use of force; failure to obtain a statement from a supervisor present during a use of force; unreasonable failure to obtain a written statement from an involved or witness deputy; failure to gather or analyze a crucial piece of evidence; or inaccurately summarizing a key witnesses' recorded statement in ~~an important a~~ **material** area. ~~approving an adjudication classification that is not supported by a preponderance of evidence; or inaccurately recording important aspects of the use of force in PPI.~~

⁵⁵ MPP 3-10/110.00 Use-of-Force Procedures.

⁵⁶ The NCI form includes a date box for the sergeant to include the date he submitted the investigations.

Investigation with Non-Critical Deficiencies. The investigation was complete in that it adequately addressed all significant issues; however, it contained mistakes and/or omissions that do not challenge the report's reliability but do raise concerns about the thoroughness of the investigation or the review process. Non-critical deficiencies may include failure to list a deputy who used minor force on the use-of-force form; failure to record the type(s) of force used by each deputy on the use-of-force form; or inaccurately recording minor aspects of the incident on the use-of-force form.

Satisfactory Investigation. The investigation was complete, adequately addressed the significant issues and did not contain material errors and/or omissions.

Recommendation 6: The compliance metrics for supervisory investigations should be amended to reflect the metrics used for this audit.

Of the 73 cases in the audit population, 15 (21%) were NCI cases,⁵⁷ 21 were Category 1 cases,⁵⁸ and 37 were Category 2 cases.⁵⁹ There is a compliance metric for Category 1 uses of force and a more rigid compliance metric for Category 2 cases. Because the NCI designation was not used when these metrics were established, NCI cases are not specifically identified in the metric. But NCI cases were part of the Category 1 cases at the time, so we considered NCI and Category 1 cases together to assess compliance.

Metric: *At least 90% of the NCI/Category 1 cases were not classified as an Investigation with Critical Deficiencies.*

Finding: The Department is not in compliance with SA Paragraphs 111 and 112 for NCI/Category 1 cases. Thirty-two of the 36 NCI/Category 1 use-of-force investigations (89%) did not have a critical investigative deficiency, which is below the compliance standard of 90%.^{61F}

Metric: *At least 93% of the Category 2 cases were not classified as an Investigation with Critical Deficiencies.*

Finding: The Department is not in compliance with SA Paragraphs 111 and 112 for Category 2 cases. Thirty-three of the 37 Category 2 use-of-force investigations (89%) did not have a critical investigative deficiency, which is below the compliance standard of 93%.^{62F}

⁵⁷ NCI cases: L-1, L-3, L-5, L-7, L-17, L-18, L-20, L-23, L-24, L-29, L-42, L-43, P-9, P-15, and P-20.

⁵⁸ Category 1 cases: L-6, L-9, L-13, L-15, L-16, L-19, L-30, L-32, L-34, L-37, L-40, L-41, L-47, P-1, P-10, P-11, P-14, P-18, P-21, P-25, and P-26.

⁵⁹ Category 2 cases: L-2, L-4, L-8, L-10, L-11, L-12, L-14, L-21, L-22, L-25, L-26, L-27, L-28, L-31, L-33, L-35, L-36, L-38, L-39, L-44, L-45, L-46, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-12, P-13, P-16, P-17, P-19, P-22, P-23, and P-24.

⁶⁰ Audit Numbers P-14, L-6, L-34, and L-40 were classified as having critical deficiencies.

⁶¹ Audit Numbers P-19, L-4, L-21, and L-33 were assessed as having critical deficiencies.

Metric: *At least 85% of the NCI, Category 1, and Category 2 cases, viewed as a group, were not classified as an Investigation with a Critical or Non-critical Deficiency.*

Finding: The Department is in compliance with the SA's requirement for investigations with non-critical deficiencies. The seven cases with a critical deficiency were incomplete and did not adequately address significant issues. Three more cases were complete but contained a relatively minor mistake or omission that did not challenge the report's reliability.⁶² So, 62 of the 73 cases were classified as satisfactory (85%), which meets the compliance standard of 85%.

OBJECTIVE 5: MANAGEMENT REVIEW

The following SA paragraphs establish the requirements for this objective.

Upon completion of the Supervisor's Report on Use of Force, the investigating supervisor shall forward the report through their chain of command, which will review the report to ensure that it is thorough and complete, and that the analysis and findings are supported by a preponderance of the evidence. (Paragraph 113)

LASD will hold deputies accountable for uses of force that violate policy or law. (Paragraph 115 partial)

LASD will. . . continue to require station commanders to refer uses of force that may violate law or the Department's Prohibited Force policy, to the Internal Affairs Bureau or the Internal Criminal Investigations Bureau for further investigation or review. (Paragraph 115 partial)

LASD will hold supervisors accountable for not detecting, adequately investigating, or responding to force that is unreasonable or otherwise contrary to LASD policy. (Paragraph 116)

LASD-AV will ensure that [PRMS] data is accurate and hold responsible Antelope Valley personnel accountable for inaccuracies in any data entered. (Paragraph 142 partial)

The following paragraphs were used to assess whether a complaint arising from a use-of-force investigation was initiated as required by the SA. Complaint investigations themselves are evaluated in the MT's audit of public complaints.

- LASD shall investigate every allegation of misconduct that arises during an investigation even if an allegation is not specifically articulated as such by the complainant. (Paragraph 130 partial)
- LASD will not permit any involved supervisor, or any supervisor who authorized the conduct that led to the complaint, to conduct a complaint investigation. (Paragraph 133)

⁶² Audit Numbers P-13, L-18, and L-30 were assessed as having non-critical deficiencies.

Compliance with the following paragraph is evaluated in the MT's audit of use-of-force cases reviewed by the EFRC.

- LASD agrees to continue to require that the Executive Force Review Committee review use of force incidents requiring response by the IAB Force/Shooting Response Team under current policy, and to review the incidents for any policy, training or tactical concerns and/or violations. (Paragraph 114)

1. MONITOR ACTIVITY

Objective 5.1: Ensuring Compliance with Use-of-Force Policy

In four cases, the force used was inconsistent with Department policy, but the reviewing manager found them to be consistent with Department standards. Again, these four cases were discussed at length earlier in this report, so an abbreviated synopsis is provided here.

- **L-4.** Two male deputies were trying to control a woman who had been sitting in a stolen car and then tried to flee. When she turned on one of them, the other reached out to grab her arm in an effort to control her. As he was doing so and while he was in very close proximity to the woman, the other deputy deployed his Taser. Lesser force options such as a simple firm grip clearly could have been effective, and that is precisely what the Parks Bureau deputy was attempting to do. The use of a Taser in this situation, without warning, on a suspect who gave no indicia she may be armed while two deputies were present with a tactical and numerical advantage was excessive and inconsistent with Department policy. The option to use lesser force should have been addressed during the review process and was not.
- **L-40.** A male deputy, 6' 1", 210 pounds, performed a takedown on a 5'4", 138-pound handcuffed female suspect then put his knee on her back, which, according to the woman and a witness, caused her to scream that she could not breathe. The use of force was adjudicated as objectively reasonable and consistent with Department policy. Given the deputy's very significant size and physical advantage over the handcuffed much smaller woman, we conclude the force use was unnecessary and excessive. The deputy should have slowed down and deescalated the incident instead of resorting to force.
- **P-2.** A deputy responded to a robbery where the suspect yanked a gold chain off the victim's neck. The deputy saw a man fitting the description and, though he was alone and without requesting backup, decided to detain the man. When the man was uncooperative and tried to pull away, the deputy grabbed the man by his neck. The unit commander opined there was nothing the deputy could have done to de-escalate or mitigate the need to use force and that there was no policy or training issue that needed to be addressed. The division commander concurred with this adjudication.

The management review failed to address multiple issues, including the deputy's unsupported assertion that he was in a "not law enforcement friendly" area, his decision to engage a robbery suspect alone without requesting backup, and his first response being to grab the suspect by his neck.

- **P-14.** During the booking process, a deputy, with a custody assistant standing nearby, deployed OC on a handcuffed suspect because he was purportedly afraid the suspect might fight or try to flee. The incident was recorded on the jail camera, which also records sound. The deputy can be heard directing profanity at the suspect, "You turn around again and I am going to kick your ass!" "Quit being a bitch!" and "Fuck it." There is no evidence the handcuffed suspect posed a threat or was an escape risk, as the deputy and custody assistant both stood in front of the only door to the holding cell. The watch commander, captain, and NPD commander all found this use of force to be minimal and consistent with Department policy. We categorically disagree with that assessment.

All four of these cases were assessed as having a critical deficiency.

Objective 5.2: Ensuring Compliance With Taser Policy

Department policy requires that, whenever practical, deputies must give a verbal warning of their intent to use a Taser before it is deployed. The policy explains that this gives the subject an opportunity to comply with directions and warns other deputies that a Taser may be activated.⁶³ In the event a Taser warning is not given, Department policy requires that deputies document the reason it was not given in their reports.

Personnel shall document whether a verbal warning was given or not given in any related reports. Clear articulation about why personnel did not give a verbal warning is required. Merely using phrases such as, "element of surprise was needed" or "for deputy safety" will not be considered sufficient articulation⁶⁴

Unless it would compromise officer safety or is impractical due to circumstances, a verbal warning of the intended use of the TASER shall precede the activation of the device in order to: Provide the individual with a reasonable opportunity to voluntarily comply; and provide other sworn personnel and individuals with a warning that a TASER may be activated. The fact that a verbal and/or other warning was given or reasons it was not given shall be documented in any related reports.⁶⁵

In the following nine cases, deputies did not give a warning before deploying a Taser, but the reports contained indicia that exigent circumstances may have existed for not issuing a Taser warning.

- **L-2.** Two deputies and a sergeant were dealing with a man having a mental health episode in the station lobby. The man had his fist clenched and was in a fighting stance. The deputies could see the man was holding something in his hand that might have been a weapon. (It was later found to be a cigarette lighter.) The deputies tried to de-escalate the situation, but the man started advancing on one of the deputies. The sergeant told the deputy to tase the suspect, which he did

⁶³ MPP 5-06/040.95 Electronic Immobilization Device (Taser) Procedures

⁶⁴ Department Manual 3-10/710.15 Verbal and Visual Warnings.

⁶⁵ Department Manual 5-06/040.95

without warning. The reports did not articulate why a warning could not have been given prior to deploying the Taser, and this was not addressed in the management review.

- **L-14.** Two deputies were handling a spousal assault call when the victim pointed toward a man approaching and yelled "That's him." The deputies tried to detain and search the man, but he would not cooperate and made several furtive hand movements to his waistband. One deputy drew his Taser while the other deputy pointed his firearm at the man while giving him commands. The man yelled for the deputies to shoot him, then he turned and ran away as the deputies chased him. The deputies knew the suspect had not been searched, and he had challenged them to shoot him. Within a few seconds, a deputy discharged the Taser and the man collapsed to the ground. The reports did not articulate why a warning could not have been given prior to the initial and subsequent Taser deployments, and this was not addressed in the management review.
- **L-22.** A deputy on patrol in a residential area about 3 a.m. saw a small fire at an intersection. He saw the fire was in a grill and two people were standing next to it. He tried to contact them while seated in his patrol car, but the suspect (35 years old, 5'10", 260 pounds) started walking away. The deputy backed his car up and, while still seated in the car, asked the man his identity and ran him for warrants, which showed he had a felony warrant for parole violation. The deputy exited the car and told the suspect he had a warrant for his arrest. The deputy requested backup, and two deputies responded. The suspect paced back and forth, yelling that he was not going to jail. Two deputies tried to handcuff him, but he pulled away and turned to assault the deputies. One deputy deployed his Taser without warning. The Taser was effective, and the suspect fell to the ground, landing on his stomach with his arms underneath him. The deputies repeatedly told the suspect to show his hands, but he refused, continuing to yell he was not going to jail. The deputy activated the Taser a second time, but it was ineffective. So, the deputy activated the Taser in drive stun mode on the suspect's leg. The suspect freed his hands and was handcuffed without further incident. The reports did not articulate why a warning could not have been given prior to the initial and subsequent Taser deployments, and this was not addressed in the management review.
- **L-28.** A deputy responded to a repeat radio call for a family disturbance involving an intoxicated suspect who was the subject of a restraining order. The suspect locked himself in the garage and refused to open the door. Two sergeants and four deputies responded as backup. A sergeant talked to the man through the locked garage door for an extended period of time, trying to get him out, but the man refused. A tactical plan was developed in which one deputy would force the door open, another was deployed with a 40mm launcher, and a third with a Taser. After again being denied access, the deputies forced entry into the garage. Deputies gave the suspect multiple commands, but he did not comply. The suspect began yelling and moving toward a tool bench with tools that could be used as weapons. The sergeant directed both deputies to deploy their less-lethal munitions. The 40mm round and the Taser darts both struck the suspect nearly simultaneously, knocking him to the ground where he was taken into custody. The reports did not articulate why a warning could not have been given before deploying the Taser, and this was not addressed in the management review, nor did the management review address the deployment of two less-lethal weapons at the same time.
- **L-36.** A patrol deputy responded to a call of a man walking in traffic on a busy street. He saw the man standing in a parking lot alongside the intersection. As the deputy drove closer, the man yelled a profanity and ran into the street, which caused several cars to stop to avoid hitting him. The deputy drove to the man and asked if he was all right. The man was fidgety and talking to himself incoherently. The deputy asked the man to sit on the curb, but the man yelled a profanity and

charged at the deputy with his fist clenched. The deputy backed his vehicle away from the suspect and requested assistance. When another deputy arrived, the two deputies approached the man on foot and tried unsuccessfully to de-escalate him. The man yelled a profanity, turned toward the backup deputy, and charged at him with clenched fists. The initial deputy deployed his Taser, without warning, which was effective. The reports did not articulate why a warning could not have been given prior to deploying the Taser, and this was not addressed in the management review.

- **L-39.** Patrol deputies responded to a prowler call where a man was pounding on the front door of the caller's residence. On arrival, the deputies saw a man at the door and detained him. The man was clearly under the influence of a controlled substance and had a warrant for domestic violence. They placed him under arrest for the warrant, handcuffed him, and placed him in a patrol vehicle. The suspect became enraged and began kicking the car with such force that it damaged the door. The deputies tried to control the suspect verbally but could not. They decided to remove him from the vehicle to keep him from hurting himself and to control him. Additional deputies arrived along with a supervisor. As they removed the man from the car, he kicked one deputy several times, bit another on his leg, and spit at all of them. As the man tried to bite another deputy, a deputy applied a Taser in drive stun mode without warning. It was temporarily effective, but the man continued being violent and again tried to bite a deputy. A deputy warned him a Taser would be used, and when the man kept fighting, the deputy deployed a Taser in drive stun and dart modes. The man finally stopped fighting. The reports did not articulate why a warning could not have been given before the first two Taser deployments, and this was not addressed in the management review.
- **L-46.** During a vehicle pursuit of a stolen vehicle, the suspect drove through a red light and almost hit several pedestrians in the crosswalk. He then stopped abruptly and fled on foot. The deputies chased him, ordering him to stop. After climbing over a wall, the man reached into his waistband and discarded a green item, later determined to be a wallet. He then kept reaching in his waistband and pockets, so a deputy, fearing he was trying to arm himself, Tased him without warning. After the suspect was taken into custody, a flat bladed screwdriver was recovered from his waistband. The reports did not articulate why a warning could not have been given prior to deploying the Taser, and this was not addressed in the management review.
- **P-5.** Deputies responded to a family disturbance radio call where the suspect was inside a home in violation of a restraining order. The deputies were aware of the restraining order and that the suspect had mental-health issues from a call a few weeks earlier where different deputies had used force on the suspect (P-4). A sergeant responded, and they located the suspect behind a parked vehicle. Deputies gave the suspect several orders to show his hands, but he refused. Then he ran away, and the deputies went in foot pursuit. It was dark, but the deputies saw the suspect start to turn toward them with what appeared to be a dark object in his hand. It turned out that what the deputies' saw was a black leather glove that the suspect was wearing. One of the deputies deployed his Taser without warning, which caused the suspect to collapse on the ground. The reports did not articulate why a warning could not have been given prior to deploying the Taser, and this was not addressed in the management review.
- **P-13.** A deputy on patrol was flagged down by a domestic violence victim, who was with her five-year-old daughter. The woman told the deputy the suspect assaulted her and threw a bottle through the window of her car. The woman had cuts on her face that were bleeding. The deputy followed the woman back to her residence, where she pointed out the suspect (5'11", 245 pounds). While the deputy requested back up, the woman walked away and climbed through a window into the house. Three deputies responded and formulated a plan. When the deputies confronted the

suspect, he grabbed the victim and held her as a shield. One of the deputies grabbed the victim and pulled her away. Another deputy tased the suspect, without warning, but the darts did not penetrate his skin and they had no effect. The subject fought with the deputies, who used force to control him. The reports did not articulate why a warning could not have been given prior to deploying the Taser, and this was not addressed in the management review.

One of the fundamental responsibilities of management is to ensure that subordinates comply with Department policies, especially when a use of force is involved. In these cases, there well may have been sufficient justification for deploying a Taser without warning, but Department policy requires deputies to clearly articulate in their reports why a warning could not be given. That did not occur in these cases, and management's failure to ensure deputies comply with Department policy governing the use of electroshock weaponry constitutes a critical deficiency.

There were two cases in which a Taser was deployed without warning, and the reports do not document sufficient indicia supporting the lack of a Taser warning. Neither of those failures was addressed in the management review, so both of the following cases were assessed as having a critical deficiency. (Both cases were discussed at length earlier in this report.)

- **L-4.** A patrol deputy had been in foot pursuit of a woman who had been sitting in a stolen car. The woman ran into a Parks Bureau deputy's car, and then turned and began advancing on the patrol deputy with her fist clenched. The patrol deputy told her to stop and put her hands in the air, but she kept advancing on him. When she was about five feet away, the Parks Bureau deputy reached out to grab her arm, and the patrol deputy almost simultaneously deployed his Taser without warning. The reports did not clearly articulate why a warning was not given, and the issue was not addressed in the management review.
- **L-26.** A sergeant was holding a Taser while standing guard in a holding cell while deputies removed the handcuffs from a suspect lying on a bed. When the man jumped up and advanced on him, the sergeant told him to stop, but he lunged forward, so the sergeant deployed the Taser (1st Taser). After the man fell to the floor, the sergeant ordered him to take his hands out from under him. The man pushed up and tried to stand, so the sergeant deployed the Taser again (2nd Taser). While the deputies discussed how they were going to transport the man for medical treatment, they allowed the man to roll onto his back because of the Taser darts in his chest. The sergeant heard a deputy yell "watch out" and simultaneously felt the suspect kick him in the knee. The sergeant immediately reacted and activated the Taser (3rd Taser). The suspect was given multiple commands before the first Taser application, but he was not warned before the second and third Taser applications, and this was not addressed during the management review.

Objective 5.3: Initiating an SCR for Alleged Misconduct

Similar to Objective 4.3, the scope of this objective was limited to determining whether an SCR was initiated when required, whether the SCR identified the substantive allegations involved, and whether the investigation was assigned to an uninvolved supervisor.

Fifteen of the use-of-force investigations in the audit population contained at least one significant allegation of misconduct. Seven were Lancaster investigations, and eight were investigations from Palmdale. Only two of the seven Lancaster cases resulted in the initiation of an SCR (L-4 and L-45). Both SCRs were assigned to an uninvolved supervisor and identified the significant allegations.

In the following five Lancaster use-of-force investigations, the watch commander failed to initiate an SCR to address a significant allegation of misconduct, and the reviewing captain and commander did not correct it. That constitutes a critical deficiency for these five cases.

- **L-6.** A woman arrested for public intoxication clearly alleged that one of the deputies sprayed her with OC and was “talking all kind of racist stuff.” The watch commander acknowledged the allegations, but he did not initiate an SCR because he opined that the incidents did not occur.
- **L-21.** A woman arrested for assault with a deadly weapon alleged the deputies used excessive force when they threw her to the ground and a deputy put his elbow across her neck to hold her down while they handcuffed her. The deputies denied her allegation, and the man who initiated the call said it did not occur, so an SCR was not initiated.
- **L-33.** A man arrested for domestic violence alleged the force used on him was excessive and retaliatory because the deputies were upset that his brother had kicked out a patrol vehicle’s window. The investigating sergeant acknowledged those allegations but did not initiate an SCR.
- **L-34.** A woman arrested for elder abuse alleged the deputy called her a “bitch.” The deputy denied the allegation, and an SCR was not initiated.
- **L-40.** A woman arrested for displaying someone else’s plates on her car alleged the deputy used unnecessary force and directed profanity at her. The deputy admitted using profanity, but an SCR was not initiated for either allegation.

All eight of the Palmdale use-of-force cases with a significant allegation of misconduct resulted in the initiation of an SCR that identified the allegation and was assigned to an uninvolved supervisor. However, one case subsequently did not address one of the allegations.⁶⁶

- **P-16.** An SCR was initiated to investigate this complainant’s initial allegations, but several weeks after his arrest, he sent a letter to IAB alleging he had personal knowledge and evidence of criminal conduct by deputies assigned to the Palmdale Station. The letter was forwarded to Palmdale, but it was never investigated. In his adjudication of the original complaint, the unit commander noted that the letter, “will be submitted with this report.” But SCRs are not routed through IAB, so IAB would have no way of knowing how that allegation was handled. On November 10, 2020, the MT sent an Interim Audit Report (IAR) to the Department notifying them that the Department cannot leave an allegation of criminal conduct by its employees uninvestigated and suggesting that someone interview the complainant and make an effort to obtain whatever evidence he may have. For that reason, this case was assessed as critically deficient.

Objective 5.4: Directed Training

Of the 73 use-of-force investigations in the audit sample, 14 (19%) recommended that a deputy receive training. In 10 of those cases (71%), the investigation included documentation that the recommended training had been provided. In nine cases, the training was for one or more tactical concerns expressed

⁶⁶ The Palmdale UOF cases with alleged misconduct are: P-1, P-2, P-3, P-13, P-14, P-16, P-17, and P-22.

by the investigating sergeant or approving watch commander,⁶⁷ and in one case it was for a supervisor failing to make an IAB notification (L-46).

In three of the remaining four cases (75%), the unit commander directed that corrective training be provided; the training occurred, but it was not provided until many months after the incident. In most cases, the delay was due to a delay in processing the report, which creates a significant risk management issue.

- **L-12.** The unit commander identified tactical deficiencies and directed that a deputy be assigned to Arrest and Control Training (ARCON). We requested documentation that the deputy attended and satisfactorily completed the training, and the Department did provide this documentation, which showed that the deputy attended and satisfactorily completed the training four months after the incident occurred.
- **L-26.** The unit commander directed that the involved sergeant attend a debriefing with the unit's training coordinator. We requested and received documentation that the debriefing occurred two weeks later. However, the delay in processing that report resulted in the remedial training being provided six months after the incident occurred.
- **L-39.** The unit commander directed that a deputy receive Total Appendage Restraint Procedure (TARP) refresher training. We requested and received documentation that the training was provided 15 days later. However, because of the delay in processing the report, the training was provided four and a half months after the incident occurred.

These delays notwithstanding, the training was provided, so these cases were assessed as containing non-critical deficiencies.

For one case, the unit commander directed that the involved deputy receive remedial training, but there is no documentation it was ever provided.

- **P-14.** The unit commander directed that the involved deputy attend: (1) Custody Force Division Policy, Force Prevention; (2) Anger Management; and (3) Law Enforcement/Autism Awareness Class (replaced Critical Incident Training). Auditors requested and received documentation that the deputy attended two of those classes, but he had not attended Anger Management Training. We were advised he did not attend the class "because it was canceled due to COVID." Inexplicably, the Department did not seek an alternative to address its concerns with the deputy's anger management issues, which were a key factor in this unnecessary use of force and is a significant risk management exposure. We inquired about the efficacy of using the Department's psychological services in situations where anger management classes are not available. We have received no response. This case was assessed as containing critical deficiencies.

⁶⁷ P-3, P-7, P-10, P-12, P-13, P-22, P-24, L-4, and L-11.

Note: The Monitors will assess Department compliance with SA Paragraph 167: "LASD shall completely and accurately record information regarding LASD-AV deputies' training attendance in LASD's Learning Management System (LMS) system or its successor" in its training audit.

Objective 5.5: Impediments to Effective Adjudications

The forms used to adjudicate uses of force (Use-of-Form 438) contain a series of questions that must be answered by the watch commander, unit commander, and division commander. For the watch commander, there is a series of 25 questions with the last one asking if the deputy's actions before, during, and after the use of force were in compliance with policy, procedures, and training. The final section, titled "Determination by Reviewer," includes a list of factors to consider, then asks:

Based on a review of all information provided, was the application of force objectively reasonable?

The unit and division commanders are then asked whether they concur with the watch commander's adjudication.

Simply put, asking managers to determine whether the force used was legal is an inadequate question; they should ask whether the force used was consistent with Department policy. We have pointed out several cases in this audit where the deputy's actions before, during, and after using force were not consistent with Department policy, procedures, and training, but the reviewing manager checked the boxes that they were. Good examples are the video recording of use of profanity and the failure to request backup when stopping a robbery suspect. The most egregious errors, however, are cases that clearly violated Department policy (Taser cases) but were objectively reasonable. Our concern is that allowing the managers' final conclusion to be limited to whether the force was legal skirts the hard question of whether or not it was consistent with Department policy, a question that is addressed in every EFRC review. In that regard, the final questions on the form should also ask whether the tactics were consistent with Department policy.

Recommendation 7: The use-of-force reporting and adjudication forms should be revised to require a final determination of whether or not the tactics and force used were consistent with Department policy.

We also noted several cases in which a supervisor or reviewing manager referred to the Department's Situational Use-of-Force Options chart to support their conclusion regarding force being objectively reasonable. That chart (Appendix D) depicts a deputy surrounded by four boxes titled "individual's actions." Within each box is a description of the "individual's action"—cooperative, resistive, assaultive/high risk, and life threatening—and the corresponding techniques or weapons that would be an appropriate response. The problem is that charts like that do not identify several significant factors that have a dramatic impact on the appropriate response. For example, size differential and numerical superiority are major factors in evaluating the type and level of force that would be appropriate. Recognizing the complexity of force today, most law enforcement agencies have done away with these oversimplified two-dimensional charts, and they rely instead on a clear list of factors to be considered, much like the list in the findings section of the Department's use-of-force reporting form.

Recommendation 8: The Department should discontinue using the Situational Use-of-Force Options chart as it does not clearly communicate the level of force that may be an appropriate response to various threat levels and is inconsistent with the SA's use-of-force requirements.⁶⁸

Objective 5.6: Risk Management Issues

Entering NCI Cases in PRMS

Well before this audit began, the Department implemented a procedure where very minor Category 1 uses of force were classified as NCI cases and, for those cases, the investigating supervisor was allowed to complete a very streamlined investigative report. During our audit, we discovered that NCI cases were not being entered into PRMS and therefore were not being captured on employee histories or in the Department's early warning system. We notified the Compliance Unit and were subsequently informed that "there will be no changes for recording NCI Force codes into PRMS." After a series of discussions, we were informed on March 18, 2021, that the Department has decided to include NCI cases in PRMS. While we appreciate that decision, there is still about a year of NCI cases from before that decision was made that need to be entered into PRMS, and SA Paragraph 142 requires that "LASD will ensure that [PRMS] data is accurate and hold AV personnel accountable for inaccuracies in any data entered."

Recommendation 9: North Patrol Division should ensure that all PREVIOUSLY reported NCI cases are captured in the PRMS database.

Recommendation 10: North Patrol Division should ensure that all FUTURE NCI use-of-force cases are captured in the PRMS database.

Critical Review of Reports

In one case, while deputies were formulating a tactical plan, a domestic violence victim was able to walk away and enter the house where the suspect was. When the deputies entered to arrest the suspect, he grabbed the victim and used her as a shield. There was no documentation that anyone addressed this obvious tactical issue (**P-13**). In another case, deputies entered a garage where a domestic violence suspect was hiding. When the suspect began moving toward some tools that could easily have been used as a weapon, the sergeant directed two deputies to deploy their less-lethal munitions, a 40mm launcher and a Taser. Because only one sergeant was working, the same sergeant conducted the investigation. No one questioned why two less-lethal munitions were deployed at the same time (**L-28**). In a third case, the sergeant at the scene of a pursuit termination directed deputies to deploy a 40mm less-lethal round to break the car's window in order to take the driver into custody. Again, the sergeant directing the force completed the investigation because he was the only sergeant working. But in his report, he wrote that he directed the deployment of the 40mm round because "the occupants remained

⁶⁸ On July 21, 2021, the North Patrol Division commander informed the Monitors that the Situational Use-of-Force Options chart was in the process of being updated.

inside the vehicle, displayed a defiant/hostile behavior, and formulated a possible escape or attack against deputies. The overall behavior created a high-risk situation and posed a threat to the public and deputies.” There was no evidence to support that conclusion, and no one challenged it, even though other deputies’ reports said the juveniles in the car were laughing and passing a bottle of liquor around (P-23). In another case (L-21) a Black woman arrested for assault with a deadly weapon complained that when she calls 911 no one comes, but when a White man calls deputies respond, an allegation that was not addressed during the management review processes. Finally, a deputy arrested a transient for driving without owner’s consent because “[witness] only saw [suspect] and employees at the location and no one else was seen fleeing the vehicle or surrounding area, and the fact [witness] had seen [suspect] in the parking lot where [victim’s] vehicle was parked.” No one saw the suspect in the car, and there was no physical evidence he had been in the car, but the reports were approved without question (P-14).

Two of these examples involved a field supervisor completing an investigation on their own actions due to a shortage of supervisors. While that may occasionally be necessary, watch commanders and unit commanders must be especially thorough in their reviews of reports under those circumstances. This is not a reflection on the reporting supervisor, only recognition that someone involved in an incident may not be as objective as someone who was a neutral third party.

Recommendation 11: Supervisors, watch commanders, and unit and division commanders need to review use-of-force reports much more critically to identify and address all issues that arise from those investigations.

Objective 5.7: Recording Use-of-Force Data on Use-of-Force Reports

SA Paragraph 142 requires the accurate entry of data into PRMS and holds AV personnel accountable for any inaccuracies in any data entered. The supervisor completing a use-of-force investigation records a variety of data on the use-of-force report forms. Those forms are reviewed and approved by the watch commander, then by the unit and division commanders, before being forwarded to the Discovery Unit for data input. The compliance metrics for data capture separate data into high-risk and low-risk or ministerial factors. High-risk factors require a higher degree of compliance than do low-risk factors.

In addition to the 15 NCI cases that were not entered into PRMS, there was one case in which an injury was not captured in PRMS. In this case (P-3), the suspect was medically treated for a fractured nose, but the investigation could not determine whether he sustained the fracture during the use of force or when his father punched him in the face before the deputies arrived. Statements from two independent witnesses and some physical evidence tend to indicate that the suspect’s nose was fractured when he was punched by his father, and IAB elected not to respond. Nevertheless, this was not captured on the use-of-force form, nor was it addressed in any of the management reviews.

Objective 5.8: Timely Management Review

The Department Manual requires that a force package be submitted to Division within 35 days of the incident and to Discovery within 60 days, or it is considered overdue.⁶⁹ Additionally, the Department's risk-management early-intervention systems are dependent on timely data entry into PRMS.

Lancaster

Lancaster's use-of-force investigations were approved by the watch commanders much more quickly than were Palmdale's. On average, investigations in Lancaster were approved within 19 days of occurrence; one outlier took 119 days to be approved (L-37). While some NCI cases were dated, a captain is not required to date approval of NCI cases, so NCIs were removed from our timeliness calculations. The remaining Category 1 and Category 2 cases took an average of 81 days (nearly three months) from occurrence to unit commander approval. When you include the average delay of six months for Discovery to enter the data into PRMS, Lancaster use-of-force investigations took an average of 9.5 months from the date an incident occurred until it was entered into the Department's automated database. See Table 3.

TABLE 3						
LANCASTER USE OF FORCE (UOF) INVESTIGATION TIMELINE						
AUDIT NO	UOF DATE	CATEGORY	UOF TO WC APPROVAL	WC TO CO APPROVAL	CO TO NPD APPROVAL	OCCURRED TO PRMS ENTRY
L-1	10/01/19	NCI	Same day	Not Dated	(104 days from incident)	9 Months
L-2	10/06/19	2	4 days	89 days	9 days	9 months
L-3	10/04/19	NCI	24 days	Not Dated	(101 days from incident)	9 months
L-4	10/08/19	2	8 days	121 days	7 days	10 months
L-5	10/11/19	NCI	13 days	No date	(97 days from incident)	9 months
L-6	10/11/19	1	18 days	87 days	7 days	10 months
L-7	10/14/19	NCI	21 days	106 days	13 days	11 months
L-8	10/16/19	2	9 days	77 days	6 days	9 months
L-9	10/16/19	1	9 days	77 days	6 days	9 months
L-10	10/17/19	2	12 days	84 days	25 days	10 months
L-11	10/19/19	2	18 days	76 days	6 days	9 months
L-12	10/22/19	2	8 days	91 days	6 days	9 months
L-13	10/25/19	1	15 days	74 days	5 days	9 months
L-14	10/27/19	2	21 days	72 days	8 days	9 months

⁶⁹ MPP 3-10/110.00 Use of Force Procedures.

TABLE 3

LANCASTER USE OF FORCE (UOF) INVESTIGATION TIMELINE

AUDIT NO	UOF DATE	CATEGORY	UOF TO WC APPROVAL	WC TO CO APPROVAL	CO TO NPD APPROVAL	OCCURRED TO PRMS ENTRY
L-15	11/06/19	1	20 days	73 days	5 days	9 months
L-16	11/06/19	1	9 days	82 days	5 days	9 months
L-17	11/09/19	NCI	35 days	60 days	9 days	9 months
L-18	11/09/19	NCI	19 days	76 days	1 day	9 months
L-19	11/12/19	1	26 days	68 days	18 days	10 months
L-20	11/12/19	NCI	8 days	No date	(113 days from incident)	10 months
L-21	11/18/19	2	10 days	88 days	6 days	9 months
L-22	11/19/19	2	24 days	69 days	19 days	10 months
L-23	11/20/19	NCI	16 days	No date	(103 days from incident)	9 months
L-24	11/21/19	NCI	11 days	79 days	12 days	9 months
L-25	11/22/19	2	7 days	87 days	9 days	9 months
L-26	11/22/19	2	30 days	115 days	7 days	11 months
L-27	11/16/19	2	34 days	67 days	8 days	10 months
L-28	11/23/19	2	42 days	52 days	16 days	10 months
L-29	11/24/19	NCI	7 days	No date	(101 days from incident)	9 months
L-30	12/1/2019	1	13 days	94 days	16 days	10 months
L-31	12/3/2019	2	5 days	85 days	8 days	9 months
L-32	12/4/2019	1	31 days	64 days	4 days	9 months
L-33	12/6/2019	2	38 days	88 days	3 days	10 months
L-34	12/8/2019	1	15 days	78 days	4 days	9 months
L-35	12/9/2019	2	14 days	88 days	5 days	10 months
L-36	12/10/2019	2	6 days	95 days!	14 days	10 months
L-37	12/11/2019	1	119 days	88 Days	3 days	13 months
L-38	12/11/2019	2	8 days	96 days	7 days	10 months
L-39	12/17/2019	2	32 days	87 days	2 days	10 months
L-40	12/18/2019	1	26 days	74 days	5 days	9 months
L-41	12/19/2019	1	21 days	74 days	2 days	9 months
L-42	12/20/2019	NCI	29 days	60 days	5 days	9 months
L-43	12/22/2019	NCI	10 days	77 days	5 days	9 months
L-44	12/26/2019	2	15 days	75 days	8 days	9 months
L-45	12/28/2019	2	29 days	43 days	5 days	8 months
L-46	12/28/2019	2	21 days	69 days	5 days	9 months
L-47	12/29/2019	1	12 days	75 days	6 days	9 months

Palmdale

Many of the Palmdale use-of-force investigations had excessive delays. On average, it took 49 days from when an incident occurred until it was approved by a watch commander. Five investigations (19%) took more than 100 days (P-1, P-7, P-10, P-24, and P-25). Again, because NCIs do not require the unit commander to date their approval, they were removed from our timeliness calculations. For the remaining Category 1 and 2 investigations, it took 41 days on average from the time the watch commander approved them until the unit commander’s approval.

Eight of those investigations (31%) took 50 days or more to be approved (P-2, P-4, P-6, P-11, P-12, P-21, P-23, and P-26). With a median delay of six months for investigations to be entered into PRMS, Palmdale use-of-force cases took about nine months until they were entered into the Department’s automated database. See Table 4.

TABLE 4						
PALMDALE UOF INVESTIGATION TIMELINE						
AUDIT NO	UOF DATE	CATEGORY	UOF TO WC APPROVAL	WC TO CO APPROVAL	CO TO NPD APPROVAL	OCCURRED TO PRMS ENTRY
P-1	10/04/19	1	116 days	23 days	25 days	1 year
P-2	10/11/19	2	29 days	50 days	19 days	9 months
P-3	10/18/19	2	35 days	42 days	13 days	9 months
P-4	10/08/19	2	12 days	63 days	20 days	9 months
P-5	10/24/19	2	41 days	22 days	21 days	9 months
P-6	10/20/19	2	9 days	55 days	16 days	9 months
P-7	10/30/19	2	114 days	17 days	3 days	11 months
P-8	10/31/19	2	32 days	49 days	4 days	9 months
P-9	11/06/19	NCI	1 day	No date	(67 days from incident)	8 months
P-10	11/11/19	1	108 days	11 days	11 days	10 months
P-11	10/27/19	1	21 days	53 days	6 days	9 months
P-12	11/21/19	2	20 days	61 days	2 days	9 months
P-13	11/25/19	2	78 days	28 days	7 days	9 months
P-14	11/27/19	1	52 days	24 days	7 days	9 months
P-15	11/27/19	NCI	16 days	No date	(70 days from incident)	8 months
P-16	12/06/19	2	34 days	39 days	15 days	9 months
P-17	12/05/19	2	22 days	42 days	6 days	8 months
P-18	12/08/19	1	7 days	64 days	22 days	9 months
P-19	12/12/19	2	52 days	38 days	15 days	10 months
P-20	12/12/19	NCI	51 days	No date	(104 days from incident)	9 months
P-21	12/14/19	1	32 days	58 days	6 days	9 months

TABLE 4						
PALMDALE UOF INVESTIGATION TIMELINE						
AUDIT NO	UOF DATE	CATEGORY	UOF TO WC APPROVAL	WC TO CO APPROVAL	CO TO NPD APPROVAL	OCCURRED TO PRMS ENTRY
P-22	12/24/19	2	43 days	41 days	6 days	9 months
P-23	11/29/19	2	25 days	54 days	17 days	9 months
P-24	12/02/19	1	112 days	30 days	5 days	11 months
P-25	10/04/19	2	116 days	17 days	25 days	11 months
P-26	11/15/19	1	22 days	67 days	10 days	9 months

The NPD commander’s approval was prompt and took about a week on average.

Recommendation 12: North Patrol Division should correct the lack of timeliness in the investigation and adjudication of use-of-force investigations.

Objective 5.9: Recording Use-of-Force Data in PRMS

After the division commander approves a use-of-force report, it is forwarded to the Discovery Unit for data input into PRMS. There is no place on the use-of-force form to record the date of the data entry. In our last audit, we recommended that the use-of-force forms should contain a section for Discovery to enter the date it was received, reviewed, and entered into PRMS. That recommendation was not implemented, and it should be.

Recommendation 13: We reiterate our prior recommendation that the Department capture the dates that Discovery receives, reviews, and enters use-of-force reports into PRMS.

Apart from the NCI cases, the Discovery Unit’s data entry into PRMS was accurate, and like our prior audits, we found no errors in the data entry for use-of-force reports. This is a significant achievement given the volume of data Discovery is required to enter, which is particularly challenging with use-of-force investigations, which often involve multiple deputies utilizing myriad techniques.

Objective 5.10: Records Retention

In our last audit we noted that some of the scanned pages were so faint as to be illegible. In this audit we found that had been addressed and was no longer an issue.

2. MONITORS’ FINDINGS OBJECTIVE 5: MANAGEMENT REVIEW

The parties, with the Monitors’ concurrence, adopted the following criteria to evaluate the management review of use-of-force investigations and categorize their level of compliance with SA provisions.

Critical Deficiency. The adjudication contained errors or omissions that quantitatively or qualitatively rendered it unreliable to adjudicate the incident. Critical deficiencies include basing the adjudication on an investigation containing a critical error; failure to adjudicate a case based on a preponderance of the evidence; failure to recognize and adjudicate a substantive allegation of misconduct; failure to hold deputies accountable for uses of force that violate policy or law; failure to hold supervisors accountable for not detecting, adequately investigating, or responding to force that is unreasonable or against LASD policy; and failure to ensure that important information is recorded accurately on the use-of-force forms and in PRMS.

Non-critical Deficiency. The adjudication adequately addressed the significant issues and was based on a reliable investigation; however, it contained errors or omissions that raise concerns about the thoroughness of the management review or lack of attention to detail. Non-critical deficiencies include failure to ensure that all witnesses are identified, and an explanation is provided for anyone who was not interviewed; a thorough explanation is provided if the supervisor conducting the investigation was also present during the incident; failure to identify and adjudicate a minor allegation of misconduct; and failure to ensure that all pertinent aspects of the incident were recorded accurately on the use-of-force form and in PRMS.

Satisfactory. The adjudication was complete, adequately addressed the significant issues, and did not contain material errors and/or omissions.

Metric: *At least 90% of the NCI/Category 1 adjudications do not contain a critical deficiency.*

Finding: The Department is not in compliance with Paragraphs 113, 115 (partial), and 116 for the management review of NCI/Category 1 use-of-force investigations. Four of the 36 NCI/Category 1 use-of-force adjudications contained a critical deficiency.⁷⁰ So, 32 (89%) of the NCI/Category 1 cases did not contain a critical deficiency, which is below the compliance standard of 90%.

Metric: *At least 93% of the Category 2 adjudications do not contain a critical deficiency.*

Finding: The Department is not in compliance with Paragraphs 113, 115 (partial), and 116 for the management review of Category 2 use-of-force investigations. Fifteen of the 37 Category 2 use-of-force adjudications contained a critical deficiency.⁷¹ So, 22 (59%) of the 37 Category 2 cases did not contain a critical deficiency, which is below the compliance standard of 93%.

Metric: *At least 85% of the NCI/Category 1 and Category 2 adjudications do not contain a non-critical deficiency.*

⁷⁰ The four Category 1 cases with a critical deficiency are L-6, L-34, L-40, and P-14.

⁷¹ The 15 Category 2 cases with a critical deficiency are: L-2, L-4, L-14, L-21, L-22, L-26, L-28, L-33, L-36, L-39, L-46, P-2, P-5, P-13, and P16.

Finding: The Department is not in compliance with Paragraphs 113, 115 (partial), and 116 for the management review of use-of-force investigations. The 19 cases with a critical deficiency were incomplete, did not adequately address significant issues, or contained material errors and/or omissions. Five more cases contained non-critical deficiencies, that is, mistakes or omissions that did not render the adjudication unreliable.⁷² So, 49 (67%) of the 73 use-of-force adjudications were satisfactory, which is below the compliance standard of 85%.

Metric: *LASD will ensure that (PRMS) data is accurate and hold AV personnel accountable for inaccuracies in any data entered (Paragraph 142).*

Finding: The Department is not in compliance with Paragraph 142 for the use-of-force cases in this audit population. There was one case in which an injury of admittedly questionable origin was not recorded on the use-of-force form and therefore not entered into PRMS. That case alone would not have put the Department out of compliance, but the Department also decided not to enter 15 NCI cases into PRMS. That resulted in only 78% (57 of 73) of the use-of-force cases in the audit population being entered into PRMS.

3. ADDITIONAL USE-OF-FORCE PARAGRAPHS

No uses of force in this audit sample violated the law or the Department's Prohibited Force Policy,⁷³ so the Monitors were unable to make a finding on compliance with that portion of SA Paragraph 115, which requires that those cases be referred to IAC or ICIB for further investigation or review.

No cases in this audit population should have been referred to the EFRC, but the Monitors evaluate Department compliance with Paragraph 114 in its EFRC audit.

OBJECTIVE 6: MANAGEMENT ANALYSIS OF USE-OF-FORCE DATA

The following SA paragraphs establish the requirements for this objective.

LASD and Antelope Valley unit commanders will be responsible for identifying and reporting force trends and for taking preventive steps to curb problematic trends, including issuing or revising policies, directives, training bulletins, or providing additional mentoring and supervision to individual deputies. (Paragraph 117)

⁷² The five cases with non-critical deficiencies are L-12, L-15, L-39, P-19, and P-23.

⁷³ MPP 3-10/040.00 Prohibited Force: *The following uses of force are prohibited unless circumstances justify the use of deadly force: head strike(s) with an impact weapon; deliberately or recklessly striking an individual's head against a hard, fixed object (e.g., roadway, driveway, concrete floor, wall, jail bars, etc.); from a standing position kicking an individual in the head with a shod foot while the individual is lying on the ground/floor; and/or, kneeling an individual in the head, deliberately or recklessly causing their head to strike the ground, floor, or other hard, fixed object.*

LASD and Antelope Valley unit commanders will regularly review and track "training and tactical review" related findings, recommendations, and comments to ensure that informal supervisory feedback does not replace the need for formal discipline. LASD will ensure that the supervisory feedback, including feedback documented in the "training and tactical review" portion of a Supervisor's Report on Use of Force, is documented in [PRMS]. (Paragraph 118)

1. MONITOR ACTIVITY

The Department conducts quarterly Risk Management Forums (RMF) for each of its field commands. The RMF for North Patrol Division includes Lancaster and Palmdale Stations. In addition to various activities including arrests and complaints, the RMF reviews uses of force for each command including deputy-involved shootings and unintentional discharges. The Monitoring Team has attended several AV RMFs and is beginning a critical review the RMF process in order to assess the Department's compliance with Paragraph 117.

Regarding the oversight required under Paragraph 118, managers regularly review the tactics and training recommendations made by supervisors in their use-of-force investigations. In this audit, we found no evidence of informal supervisory feedback being used to replace the need for formal discipline. However, our inquiries with the Department revealed that PRMS lacks the capability to store the "training and tactical review" section of use-of-force reports as required by Paragraph 118. We will work with the Department to determine how compliance can be achieved for that requirement.

Recommendation 14: The Department needs to find a way to capture the "training and tactical review" portion of use-of-force reports in PRMS or do so in another suitable automated system.

2. MONITORS' FINDINGS OBJECTIVE 6: MANAGEMENT ANALYSIS OF USE-OF-FORCE DATA

Metric: *No metric has been established for the management analysis required under Paragraph 117.*

Finding: The Monitors are unable to make a determination pending our critical review of the Risk Management Forum process and establishment of a compliance metric.

Metric: *There is no metric for the Paragraph 118 requirement that unit commanders ensure informal supervisory feedback does not replace the need for formal discipline and that the "training and tactical review" portion of the use-of-force reports is documented in PRMS.*

Finding: The lack of a metric notwithstanding, the Department is not in compliance with Paragraph 118. We found no evidence that informal supervisory feedback was replacing the need for formal discipline. However, we found that PRMS does not have the capacity to store the training and tactical review section of use-of-force reports, and we are not aware of any plan to do so.

Recommendation 15: The Parties need to establish compliance metrics for Paragraphs 117 and 118.⁷⁴

OBJECTIVE 7: LASD ANALYSIS OF USE-OF-FORCE INVESTIGATIONS

The following SA paragraphs establish the requirements for this objective.

LASD will conduct at least semi-annual analysis of, at a minimum, the following AV data . . . (c) uses of force, including force associated with obstruction arrests and similar violations; (d) arrests for California Penal Codes 69 (felony obstruction or resisting arrest), and 243(b) (battery on a peace officer or other public officer without infliction of injury). (Paragraph 82)

Within one year of the Effective Date and at least annually thereafter, LASD will analyze the Antelope Valley stations' force data, including the force-related outcome data, to identify significant trends, and identify and correct deficiencies revealed by this analysis. (Paragraph 120)

LASD-AV's force analysis will include assessment of the frequency and nature of uses of force that are: referred to IAB for investigation; the subject of misconduct complaints; the subject of civil suits; related to criminal obstruction- or resisting-arrest-type charges that are dismissed or declined by the prosecutor; or involve repeat-deputies or units. (Paragraph 121)

LASD will determine whether policy or training curricula changes must be made as a result of its analysis of use-of-force incidents. (Paragraph 122)

LASD will document the results of the use of force analysis in a public report. (Paragraph 123)

1. MONITOR ACTIVITY

In our first use-of-force audit, we reported that on September 28, 2017, the LASD Audit and Accountability Bureau (AAB) conducted a use-of-force audit of Lancaster Station (No. 2017-5-A), and on October 25, 2017, it conducted a use-of-force audit of Palmdale Station (No. 2017-4-A). Those audits “took into consideration the correlation between the findings and related requirements of the . . . Settlement Agreement.” At that time, the Monitors informed the Department that in order for Department audits to be considered for assessing SA compliance, they must be specifically designed to do so.

On June 1, 2021, auditors contacted the Department’s Audit and Accountability Bureau and were advised that they had not conducted any AV use-of-force audits. Additionally, the Department has not submitted any analysis or reports that met the requirements of SA Paragraphs 82, 120, 121, 122, or 123.

⁷⁴ The Parties and Monitors are currently developing metrics for SA Paragraphs 117 and 118.

2. MONITORS' FINDING OBJECTIVE 7: LASD AUDIT OF USE-OF-FORCE INVESTIGATIONS

- Metric:** *LASD develops a methodology for conducting this review, and it is approved by DOJ and the Monitors.*
- By March 1 of each year, LASD prepares a plan for reviewing the preceding year's uses of force by AV personnel and submits it to DOJ and the Monitors for approval.*
- By June 1 of each year, LASD submits a draft report to DOJ and the Monitors analyzing the preceding year's uses of force by AV personnel. The DOJ and Monitors will have 10 business days to provide comment.*
- By August 1 of each year, the final report on uses of force by AV personnel is published, including posting on each AV unit's website, presentation at each AV unit's next regularly scheduled Community Advisory Board [Committee] meeting, and a copy is made available to community groups on request.*
- Issues identified in the assessment are addressed with appropriate corrective action, including but not limited to changes to policy and training curricula.*
- Finding:** The Department has done none of these things and is not in compliance with Paragraphs 82, 120, 121, 122, and 123.

OBJECTIVE 8: USE-OF-FORCE TRAINING

The following SA paragraph establishes the requirements for this objective.

LASD shall provide all Antelope Valley deputies with annual or biennial use of force training. The topics will include the following:

- a. proper use of force decision making, including when force may be unnecessary in response to minor resistance (biennial);*
- b. role-playing scenarios and interactive exercises that illustrate proper use of force decision making, including training deputies on the importance and impact of ethical decision making and peer intervention (annual);*
- c. principles of procedural justice, and avoiding the use of force in response to minor resistance (biennial);*
- d. de-escalation techniques that encourage deputies to make arrests without using force (annual);*
- e. threat assessment, including how race can impact deputies' threat assessments (biennial);*
- f. LASD-AV deputies will attend LASD's Tactics and Survival (TAS), also known as the Laser Village tactical firearms training (biennial);*
- g. Supervisors shall receive initial and annual refresher training on conducting use of force investigations, how to effectively direct deputies to minimize uses of force and to intervene effectively to prevent or stop unreasonable force, using LASD's accountability and disciplinary systems after encountering a potentially unreasonable use of force, and supporting deputies*

who report unreasonable or unreported force, or who are retaliated against for using only reasonable force or attempting to prevent unreasonable force (annual). (Paragraph 119)

1. MONITOR ACTIVITY

On May 7, 2020, in response to the MT's request for documentation demonstrating the Department's compliance with Paragraphs 107 and 119, the Department provided the following documents:

- Shoot Don't Shoot/Implicit Association Tests;
- Course Outline Perishable Skills Arrest and Control Course; and
- Tactics and Survival Training—Tactics 1.

An evaluation of those documents quickly revealed the Department was not in rudimentary compliance with the SA. That was communicated to the Department in a May 20, 2020, memorandum. On May 27, 2020, auditors met with County Counsel and the Compliance Unit to discuss the Department's lack of compliance with the SA provisions requiring that AV deputies and supervisors receive the specified use-of-force training. We were informed that the Department would provide the Monitors with a plan to implement and demonstrate compliance with each of the SA's training requirements and that it was anticipated the plan would take a three-prong approach.

1. LASD provides documentation, including expanded course outlines and instructions, visual aids, and handouts for the training the Department has in place or has developed to specifically address the mandates of SA 119a-g item by item.
2. LASD provides a training schedule so it can be audited by the Monitoring Team.
3. LASD documents the methodology that the Department will use to track the delivery of the training provided to AV deputies and their supervisors, including course rosters and documentation of satisfactory completion.

On May 28, 2020, we received the following documents from the Compliance Unit.

- LASD Continued Professional Training (CPT) Use-of-Force PowerPoint.
- LASD Continued Professional Training POST Perishable Skills Program.
- Arrest & Control/Driver Training Expanded Course Outline.
- The LASD Antelope Valley's Bias-Free Policing Training Lesson Plan.
- The LASD Antelope Valley's Bias-Free Policing Training PowerPoint Presentation.

Then on June 17, 2020, we received another document.

- POST Expanded Course Outline Tactics and Survival I (TAS) Basic Patrol Update (2018).

The Monitors' evaluation of those documents quickly revealed they did not satisfy the SA's training requirements. For example, the stated instructional goal for the TAS Expanded Course Outline was "To introduce to or enhance Law Enforcement Officers tactics and survival skills." The very first slide in that

module depicted a warrior’s helmet with crossed swords and the quote, “Who desires peace should prepare for war.” That is not the message that should be conveyed to deputies being taught de-escalation techniques in order to minimize the use of force.

On January 21, 2021, the Monitors, DOJ, Department representatives, and County Counsel had a virtual meeting to discuss the development of the Department’s use-of-force training curriculum so that it would satisfy SA mandates. Following that meeting, the Department conducted a series of internal meetings to develop the training. In early March 2021, the Department submitted a series of training modules, expanded course outlines, and visual aids developed to meet the SA’s use-of-force training mandates. Auditors reviewed those modules and found them to be a dramatic improvement over the previously submitted training materials. A virtual meeting with members of the Compliance and Training Units occurred on March 15, 2021. The Monitoring Team provided specific feedback and requested that once the Department has reviewed and addressed the feedback, the revised and expanded course outlines and visual aids should be submitted to the Monitors. The Department has recently complied with that request, and the training materials are under review.

2. MONITORS’ FINDINGS OBJECTIVE 8: USE-OF-FORCE TRAINING

Metric: *LASD will be deemed in substantial training compliance with this provision when it develops training curricula and delivery for these provisions, and they are approved by DOJ and the Monitors.*

Finding: The Department remains not in compliance with the training requirements of Paragraph 119.

OBJECTIVE 9: CALIFORNIA USE-OF-FORCE REPORTING REQUIREMENTS

Pursuant to Government Code section 12525.2, effective January 1, 2017, all California law enforcement agencies are required to collect certain use-of-force incident data and provide the California Department of Justice with an annual report of all incidents in which a peace officer employed by the agency is involved in any of the following:

1. Shoots a civilian;
2. Is shot by a civilian;
3. Uses force against a civilian resulting in serious bodily injury or death; and,
4. Is the subject of force used by a civilian resulting in the officer’s serious bodily injury or death.

Government Code section 12525.2(d) defines serious bodily injury as “a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.” This data is subsequently published on the California Attorney General’s Open Justice Website.

1. MONITORS' FINDINGS OBJECTIVE 9: CALIFORNIA USE-OF-FORCE REPORTING REQUIREMENTS

There were no indicia that any incidents in this audit population met these reporting requirements.

X. CONCLUSION

The legal authority to use force on another person is a tremendous responsibility that is entrusted only to law enforcement professionals who are sworn to protect our communities. The circumstances justifying any use of force, along with the type and degree of force used, continue to be the subject of intense scrutiny and public debate. No other law enforcement action garners more community and judicial scrutiny than the use of force.

Societal expectations will continue to evolve, and law enforcement policies, training, and technology must constantly be improved in response to those expectations. Less-lethal devices only contemplated a couple a decades ago are now being routinely carried and deployed by law enforcement officers. Public scrutiny has intensified along with other technological advancements that have taken place with video and other recording technologies that are so readily available today. Such advancements have in many ways helped the law enforcement profession and affirmed that most peace officers conduct themselves professionally and courageously, even in the face of life-threatening dangers. But they have also exposed those who lack the training and/or willingness to adhere to professional standards when handling tense and rapidly evolving circumstances that arise. The level of scrutiny that has resulted is also serving to reveal failings in the ranks of supervisors, managers, and executives who fail to critically evaluate those incidents and address the deficiencies that are uncovered.

We are pleased to acknowledge that this audit revealed that in 95% of the cases we reviewed, the deputies used force in a manner that was consistent with Department policy *and* the SA's use-of-force requirements. The audit also documented that in 92% of the cases, deputies undertook efforts to de-escalate tense and evolving incidents without using force. As a result, the Department was found in compliance with the Settlement Agreement's provisions for deputy use of force and employing de-escalation techniques.

With that said, our review of LASD management evaluation of UOF cases found areas of concern. There were four cases where the Monitors categorically disagreed with the Department managers' determination that the force used was consistent with their Department policy. Other issues that management review consistently failed to identify and respond to were allegations arising during UOF investigations that did not result in an SCR and violations of the Department's TASER policy.

The Department has informed the Monitors that it does not agree with several of our key findings. We are confident in our assessment, and we continue to encourage the LASD management staff to provide a sufficient level of professional scrutiny and accountability of UOF incidents to achieve SA compliance and, ultimately, to support the growth of AV deputies and increase the level of trust within the community.

APPENDIX A: UOF PARAGRAPH COMPLIANCE

TABLE A			
COMPLIANCE STATUS FOR USE-OF-FORCE PARAGRAPHS AUDIT OF NCI, CATEGORY 1, AND CATEGORY 2 USES OF FORCE			
PARAGRAPHS	SA REQUIREMENTS BY AUDIT OBJECTIVE	IN COMPLIANCE?	
		1ST AUDIT	2ND AUDIT
Objective 1: The Use of Force			
102, 104, 105	The reasonable use of force	Yes	Yes
106	Inhibit using force on person legally recording incident	Yes	Yes
107	Head strike with impact weapon	Yes	Yes
Objective 2: Avoiding Force and De-Escalation			
103	Use force as a last resort and de-escalation	Yes	Yes
Objective 3: Reporting Uses of Force			
108	Deputies report force incidents	Yes	Yes
109	Accurate UOF reports without boilerplate language	Yes	Yes
110	Immediate supervisory notification of the use of force	Yes	Yes
Objective 4: Supervisory Investigation			
111 a–d	Thorough UOF investigations	Yes	No on critical deficiency cases; Yes on non-critical cases
111 e	Review deputies' UOF reports for completeness	Yes	
112 a	Independent supervisory UOF investigations	Yes	
112 b–e	Completeness of UOF investigations	Yes	
Objective 5: Management Review			
113	Management review of UOF investigations	Yes	No
114	Thorough review by Executive Force Review Board	NA	NA
115	Deputies held accountable for force that violates policy	No	No
	Refer cases that violate the law or Prohibited Force policy to IAB or ICIB	UTD	UTD
116	Supervisors held accountable for inadequate investigation	UTD	No
142	Accurate data entered into PRMS	Yes	Yes
Objective 6: Management Analysis of UOF Data			
117	AV commanders identify and curb problematic UOF trends	No	Pending evaluation
118	AV commanders ensure informal supervisory feedback does not replace formal discipline and that the training and tactical review portion of a UOF report is captured in PRMS.	No	No

TABLE A

**COMPLIANCE STATUS FOR USE-OF-FORCE PARAGRAPHS AUDIT OF NCI,
CATEGORY 1, AND CATEGORY 2 USES OF FORCE**

PARAGRAPHS	SA REQUIREMENTS BY AUDIT OBJECTIVE	IN COMPLIANCE?	
		1ST AUDIT	2ND AUDIT
Objective 7: LASD Audit of Uses of Force			
82, 120–123	Annual analysis and public report on UOF data and trends	No	No
Objective 8: UOF Training			
119	Development and delivery of UOF training	No	No

APPENDIX B: AUDIT RECOMMENDATIONS

Recommendation 1: The use-of-force compliance metrics need to be updated to include uses of force reported as NCIs in the same grouping as Category 1 uses of force.

Recommendation 2: North Patrol Division should review the finding regarding deputies not being adequately forewarned of calls they were responding to that involved a person experiencing a mental health episode to determine whether there is a need for increased training of 911 staff to better discern when calls for service have potentially involve mentally ill subjects.

Recommendation 3: The Department should enforce its training standard discouraging the use of facial punches and encouraging the use of palm strikes in those cases where personal weapons are deemed necessary.

Recommendation 4: The parties need to establish a compliance metric for the SA requirements that deputies report all uses of force, that they not use conclusionary statements or “boilerplate” language, and that reports not contain material omissions.

Recommendation 5: Once again, we recommend that the Department modify the use-of-force forms and/or process to capture the date an investigation is submitted to the watch commander and the dates managers approve the force package.

Recommendation 6: The compliance metrics for supervisory investigations should be amended to reflect the metrics used for this audit.

Recommendation 7: The use-of-force reporting and adjudication forms should be revised to require a final determination of whether or not the tactics and force used were consistent with Department policy.

Recommendation 8: The Department should discontinue using the Situational Use-of-Force Options chart as it does not clearly communicate the level of force that may be an appropriate response to various threat levels and is inconsistent with the preamble to the SA’s use-of-force requirements.

Recommendation 9: North Patrol Division should ensure that all *previously* reported NCI cases are captured in the PRMS database.

Recommendation 10: North Patrol Division should ensure that all *future* NCI use-of-force cases are captured in the PRMS database.

Recommendation 11: Supervisors, watch commanders, and unit and division commanders need to review use-of-force reports much more critically to identify and address all issues that arise from those investigations.

Recommendation 12: North Patrol Division should correct the lack of timeliness in the investigation and adjudication of use-of-force investigations.

Recommendation 13: We reiterate our prior recommendation that the Department capture the dates that Discovery receives, reviews, and enters use-of-force reports into PRMS.

Recommendation 14: The Department needs to find a way to capture the “training and tactical review” portion of use-of-force reports in PRMS or do so in another suitable automated system.

Recommendation 15: The Parties need to establish compliance metrics for Paragraphs 117 and 118.

APPENDIX C: SIGNIFICANT FINDINGS

Significant Finding 1: After conducting a thorough validation of the audit population, auditors found no indicia of unreported uses of force by deputies.

Significant Finding 2: Twenty-two of the 73 use-of-force cases in this audit (30%) involved a subject who either displayed signs of severe mental illness or had a significant a history of mental illness.

Significant Finding 3: Deputies were forewarned in less than half the calls involving mental illness (41%) that they were responding to a call involving a person experiencing a mental health episode.

Significant Finding 4: In 37 of the 73 use-of-force cases in the audit population (51%), the suspects were under the influence of alcohol and/or drugs.

APPENDIX D: SITUATIONAL USE-OF-FORCE OPTIONS CHART



Los Angeles County
Sheriff's Department

Situational Use of Force Options

