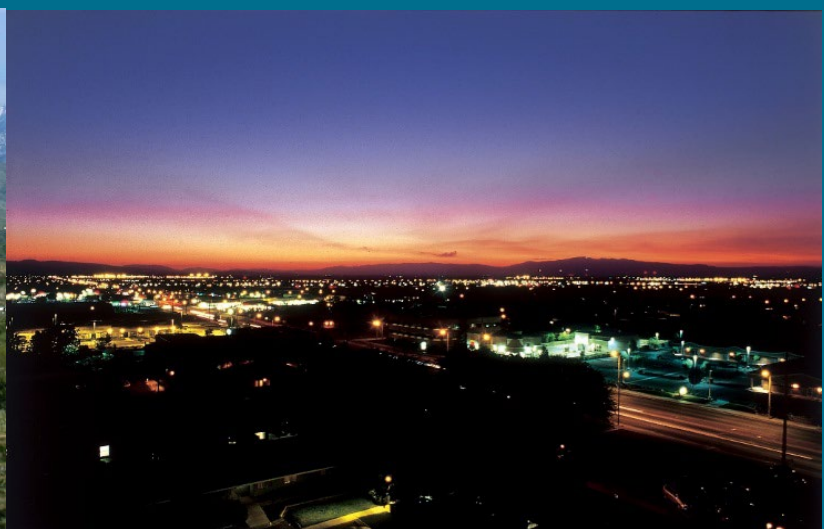


ANTELOPE VALLEY MONITORING TEAM

4th USE-OF-FORCE AUDIT



November 15, 2023

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EXECUTIVE SUMMARY

This audit was initiated at the request of the Los Angeles Sheriff's Department (LASD, or Department), with the Department of Justice's (DOJ) approval, that the Monitoring Team (MT) conduct a use-of-force (UOF) audit focused on selected cases that could help identify those areas where the Department should improve its organizational governance involving the use, investigation, review, and adjudication of UOF incidents. Analysis of UOF data from the 167 incidents that occurred in the 3rd quarter of 2022 revealed that about 24% of the deputies assigned to the two AV stations were involved in 92% of those incidents. Many of those deputies had been consistently listed in the stations' risk management quarterly reports for the past several years. Based on this information and the case characteristics, the auditors selected a sample of 26 UOF investigations involving those deputies that could serve to highlight patterns and problems requiring greater management and supervisory attention.

Of the 15 SA paragraphs addressed in this audit, the auditors found the Department in compliance on three, in partial compliance on two, and out of compliance on 10. Significant audit findings included the following.

- Ten of the 26 cases (38%) in the audit sample involved uses of force that were unnecessary and inconsistent with the Settlement Agreement (SA) and Department policy. These included cases with inappropriate use of Tasers and where the force used was inappropriate to the circumstances or could have been avoided altogether. Five of these cases included unnecessary force against handcuffed individuals, three of which involved the unnecessary deployment of oleo resin capsicum (OC) on individuals who were handcuffed and secured in the back seat of a patrol vehicle. Three inappropriate uses of force were directed by sergeants.
- In 12 of the 26 cases (46%), the tactics used were inconsistent with the SA and Department policy. This includes: (1) the failure to utilize appropriate de-escalation techniques that could have avoided the need to use force; (2) situations where, rather than de-escalating, LASD deputies unnecessarily escalated situations prior to the UOF; and (3) poor application of procedural justice principles and other poor tactics. Cases also included the use of Tasers on individuals who were not assaultive or combative and/or who were not given sufficient opportunity to comply to deputy requests, both of which are required by LASD policy.
- Eight of the 26 cases (31%) were not in compliance with regard to deputy reporting. While it was found that deputies did consistently and promptly report uses of force to their supervisors, some deputy reports contained inconsistencies, and/or boilerplate language about substantive issues. Also, in this first MT audit that included the review of Body Worn Camera (BWC) footage for each case, some of the reports were found to contain statements that were not consistent with BWC recordings, with no explanation provided in the deputy's report or supervisor's investigation.
- Nine of the 26 cases (35%) did not comply with the SA requirements for supervisor investigations. This included cases with inappropriately conducted interviews, cases in which investigators did not identify or address inaccuracies and conflicting statements in deputy reports, and cases where Service Comment Reports (SCRs) were not initiated when allegations of misconduct by LASD deputies arose in the investigation.

- Nineteen of the 26 cases (73%) had management reviews that were critically deficient, unreliable, and in violation of the SA and Department policy. None of those management reviews addressed unnecessary or out-of-policy uses of force, dangerous and/or out-of-policy tactics, improper use of Tasers, lack of de-escalation, or investigation shortcomings identified by the auditors. Many cases also involved unacceptable delays in managerial review.
- In four of the cases, the MT found the deputies demonstrated commendable actions and notable application of de-escalation tactics that could serve as examples to train other deputies on the Department's expectations.

I. SETTLEMENT AGREEMENT

On April 28, 2015, the Department of Justice's (DOJ) Civil Rights Division, the Los Angeles Sheriff's Department (LASD, or the Department), and the County of Los Angeles entered into a Settlement Agreement (SA) with the goal of ensuring that police services are delivered to the people of Lancaster and Palmdale in a manner that fully complies with the Constitution and laws of the United States.

In their investigation preceding the settlement, DOJ had found that the Department's use-of-force (UOF) policies were not being followed consistently and that some types of policy violations were tolerated routinely. They also found that accountability measures were not effectively implemented and there was a pattern of reluctance to hold deputies accountable for serious violations of policy including the use of unreasonable force. Of particular note, the DOJ's investigation concluded that the 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.¹

SA paragraphs 102 through 118 address the Department's UOF policy and principles as well as the manner the Department is required to report, investigate, and review each UOF. The full text of those paragraphs is provided under the relevant Audit Findings section of this report.

The SA provides the following definitions related to the use of force.

- **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. (Paragraph 5)
- **Verbal statements**, bracing, tensing, pulling away, or fleeing the scene do not alone constitute active resistance. (Paragraph 5)
- **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)

¹ DOJ Letter of Findings (June 28, 2013), p. 6, at <http://www.antelopevalleysettlementmonitoring.info/>

II. ANTELOPE VALLEY USE-OF-FORCE PROCESS

LASD uses four classifications for the levels of force used by its employees. This audit addresses the first three: Non-Categorized Force (NCI), Category 1 Force, and Category 2 Force.

Non-Categorized Force Incident 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;
- Take downs; 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
- 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 the most serious incidents, including:

- Shootings;
- Force resulting in hospitalization or death;
- Head strikes with an impact weapon; or
- Canine bites.²

² Unlike the lower levels of force, Category 3 UOF investigations are conducted by the Internal Affairs Bureau (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 were the subject of the MT's 2nd UOF Audit and are beyond the scope of this engagement.

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

If a field supervisor was involved in or directed the UOF, an uninvolved supervisor is supposed to respond and conduct the investigation. In the event 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 and/or actions the supervisor took, or directed, during the UOF.³

The on-duty watch commander often responds to the incident location and to the medical facility where the subject of the UOF is being treated. The watch commander examines the subject, documents any injuries, and captures them on digital media. The watch commander also interviews the subject of the UOF 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 captain and Internal Affairs Bureau (IAB), depending on the situation. If the subject of the UOF alleges misconduct, the watch commander is supposed to initiate a Service Comment Report (SCR) documenting the allegation(s).⁴

The supervisor conducting the UOF 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 UOF, which is normally digitally or 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/or physical evidence, including any camera recordings that may have captured the incident;
- If the subject of the UOF was transported for medical treatment, responding whenever possible to the medical facility to interview the treating physician and obtaining documentation of any medical treatment provided;
- Determining whether there are any indicia that the UOF is a Category 3 event and, if so, notifying the watch commander, 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.

³ LASD Manual of Policies and Procedures (MPP) 3-10/110.00.

⁴ MPP 3-04/010.05

The investigating supervisor completes the UOF 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 UOF investigation and all related reports are forwarded to the unit commander, then to the North Patrol Division (NPD) Commander, for review and adjudication.

Each level of review is supposed to evaluate the UOF investigation for completeness, compliance with Department policy and training, and risk management. The tactics used prior to, during, and after the incident are also supposed to be evaluated along with efforts to de-escalate the situation, whenever possible, without using force.

III. PRIOR USE-OF-FORCE AUDITS

The MT's first audit of Category 1 and 2 uses of force was published in October 2018; the MT published a second audit of Category 1 and 2 uses of force in July 2021. In the interim, the MT published a Category 3 UOF audit in November 2019. The reports for those audits are available on the Monitors' website: <http://antelopevalleysettlementmonitoring.info>.

IV. MONITORS' AUDIT RESPONSIBILITY

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

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 . . . the 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 . . . responsiveness 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)*

There are also several other paragraphs addressing the Monitors' responsibility to document the extent to which the Department is complying with SA provisions, the most notable of which are as follows.

[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)

V. 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 NCI, Category 1, and Category 2 UOF events. Specifically, the audit assessed whether:

- The force used by AV deputies was necessary, proportional, consistent with Department policy, and used in response to behavior that posed a threat to the deputy or public safety (Paragraphs 102, 104, 105, and 106g);
- Tactics were used prior to, during, and after a UOF incident to defuse and de-escalate the evolving situation, including the use of advisements, warnings, and persuasion, and/or to de-escalate the UOF as resistance decreased (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 UOF was thoroughly investigated (Paragraphs 111 and 112);
- The investigation findings and conclusions were supported by a preponderance of evidence (Paragraph 113); and
- Effective management oversight occurred, managers held deputies accountable for violation of Department policy; and held supervisors accountable for not detecting, adequately investigating, or responding to force that was unreasonable or otherwise contrary to Department policy and/or the law, and SCRs were initiated when allegations of misconduct arose during an investigation (Paragraphs 115, 116, and 130).⁵

⁵ Paragraphs 117 and 118 will be the subjects of a separate assessment.

VI. AUDIT METHODOLOGY

This audit was initiated at the request of LASD’s executives, with DOJ’s concurrence, that the Monitoring Team conduct a UOF audit focused on identifying risk management exposures, system weakness, and areas where the Department should improve its organizational performance associated with the use, investigation, review, and adjudication of UOF incidents. In our previous audits, the MT has audited the entire population of the use-of-force incidents that occurred during a particular audit period. But in this case, LASD executives asked that the MT use judgmental sampling methodologies to identify and select the cases to be audited in order to provide the most relevant information to guide the Department in improving its processes. As *Sawyer’s Internal Auditing* explains,

*Judgmental sampling may be used to select examples of deficiencies to support the auditors’ contention that the system is weak. They may make a purposive search for defective or improperly processed items to confirm their suspicions or support their position that the system is not capable of identifying improprieties. This is a valid use of judgmental sampling. But it should not be used to estimate the number or value of such items in the total population. The auditors had not given every item in the population an equal chance of selection. The test was subjective, not objective. Hence the auditors definitely may not statistically extrapolate sample results on the audit population.*⁶

LASD executives stated that judgmental sampling has been an established procedure utilized to determine compliance in court agreements involving LASD custody operations. The Parties and MT agreed that our established compliance metrics would be used in this engagement.

For each case, auditors reviewed and conducted a comparative analysis of the completed investigation reports and associated recordings and BWC videos. In this report, we provide the most detail the first time a case arises in the report, while in subsequent descriptions we focus on just the most relevant details associated with the objective being reviewed in that stage of the report.

VII. AUDIT POPULATION

Auditors met with Compliance Unit staff and evaluated a variety of time periods to draw the audit’s population. It was decided that the third quarter 2022 met the criteria for contemporaneous cases that have been fully adjudicated by the AV stations and North Patrol Division. It was subsequently learned that a few cases had not been completed; those cases were later provided to the auditors once they were adjudicated. The following chart shows the total number of cases reported during the audit period broken down by station and type of force.

⁶ Sawyer, L. B., Dittenhofer M. A., & Scheiner, J. H. (2003). *Sawyer’s internal auditing: The practice of modern internal auditing* (5th ed.). Institute of Internal Auditors, p. 470.

TABLE 1		
TOTAL USES OF FORCE 3RD QUARTER 2022		
PALMDALE	LANCASTER	AV TOTAL
NCI: 24 (31%)	NCI: 31 (35%)	NCI: 55 (33%)
Cat 1: 19 (24%)	Cat 1: 22 (25%)	Cat 1: 41 (25%)
Cat 2: 35 (45%)	Cat 2: 36 (40%)	Cat 2: 71 (43%)
Total: 78 (100%)	Total: 89 (100%)	Total: 167 (100%)

Auditors reviewed descriptive data on the 167 third quarter 2022 UOF cases, including such factors as the type of force used, age of the subject, number of deputies present, and whether the subject was restrained when force was used. In further analysis of the third quarter reports, we found that about 95 (24%) of the approximately 390 deputies assigned to the two AV stations were involved in 154 (92%) of the stations' 167 UOF incidents. Auditors also reviewed the third quarter quarterly reports for each AV station. We then looked to see which of those 95 deputies had most often been on the quarterly reports for the past several years. Using that information and the descriptive data, auditors made an independent determination of the UOF cases that would be selected for the audit. That resulted in a judgmental audit sample of 26 UOF investigations drawn from the cases involving deputies who were most frequently involved in UOF incidents during that quarter.

The following chart identifies the station and force category for the 26 cases selected for the audit sample.⁷

TABLE 2				
USE-OF-FORCE SAMPLE 3RD QUARTER 2022				
STATION	NCI	CATEGORY 1	CATEGORY 2	TOTAL
Lancaster	0	6	5	11
Palmdale	1	2	12	15
Total	1	8	17	26

⁷ NCI case: P-6; Category 1 cases: P-4, P-10, L-1, L-3, L-8, L-9, L-10, L-11; Category 2 cases: P-1, P-2, P-3, P-5, P-7, P-8, P-9, P-11, P-13, P-14, P-15, L-2, L-4, L-5, L-6, L-7.

VIII. AUDIT SAMPLE: SOURCE OF ACTIVITY AND UOF SUBJECT DEMOGRAPHIC DATA

LANCASTER

Radio calls were the source of deputies' activity preceding 10 of the 11 Lancaster UOF cases (91%). The remaining case (L-6) was for a traffic violation. Of the 11 subjects of deputies' uses of force:

- Seven (64%) were Black (L-4, L-5, L-6, L-8, L-9, L-10, L-11);
- Three (27%) were Hispanic (L-1, L-3, L-7);
- One (9%) was White (L-2);
- Five (45%) were female (L-2, L-3, L-8, L-9, L-11);
- Two (18%) were homeless (L-3, L-10);
- Three (27%) had either a history or indicia of mental illness (L-5, L-7, L-11); and,
- Five (45%) were under the influence of drugs and/or alcohol (L-1, L-2, L-4, L-5, L-10).

PALMDALE

In Palmdale, 16 subjects of deputies' force were involved in the 15 UOF cases.⁸ Radio calls were the source of deputies' activities preceding 12 of the 15 Palmdale UOF cases (80%). Two cases (P-2, P-11) were for traffic stops. One case (P-8) involved an unusual occurrence (UO). Of the 16 subjects of deputies' uses of force:

- Six (38%) were Black (P-1 with 2 Black subjects, P-3, P-4, P-5, P-7)
- Six (38%) were Hispanic (P-2, P-4, P-8, P-9, P-10, P-12);
- Four (25%) were White (P-6, P-11, P-13, P-14);
- Six (38%) were female (P-2, P-3, P-7, P-10, P-14, P-15);
- Four (25%) were homeless (P-5, P-10, P-11, P-14);
- Seven (44%) had either a history or indicia of mental illness (P-4, P-5, P-6, P-7, P-10, P-13, P-15); and
- Five (31%) were under the influence of drugs and/or alcohol (P-3, P-6, P-9, P-13, P-15).

⁸ Audit No. P-1 involved two subjects.

TABLE 3			
AUDIT SAMPLE RACE/ETHNICITY (n=27 Subjects of Force)			
	LANCASTER	PALMDALE	AV TOTAL
Black	7 (64%)	6 (38%)	13 (48%)
Hispanic	3 (27%)	6 (38%)	9 (33%)
White	1 (9%)	4 (25%)	5 (19%)
Total	11 (100%)	16 (100%)	27 (100%)

IX. VALIDATION OF AUDIT SAMPLE

The audit sample was judgmentally drawn from a population of uses of force involving high-risk UOF incidents, such as force used on restrained suspects, juveniles, and/or force used by deputies who were involved in an inordinate percentage of the force incidents during the audit time period. The audit sample was not randomly selected and cannot be statistically validated.

X. COMPLIANCE MEASURES

The Parties and MT established “compliance metrics” 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 must be maintained for at least a year (Paragraphs 205 and 212).

When the UOF compliance metrics were originally established, the Department used three categories of force. Since then, a fourth UOF categorization has been added in which the lowest risk Category 1 cases were re-classified as Not-Categorized Force Incidents (NCI). For NCIs, investigators use a streamlined reporting process. So, the UOF cases in this audit sample are comprised of NCI, Category 1, and Category 2 uses of force, but the compliance metrics only refer to Category 1 and Category 2 uses of force. For compliance purposes, this audit considered NCI uses of force as Category 1 cases.

XI. AUDIT FINDINGS

OBJECTIVE 1: THE USE OF FORCE

RELEVANT SA PARAGRAPHS AND DEPARTMENTAL GUIDELINES

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. (SA 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. (SA 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. (SA 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. (SA 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. (SA Paragraph 107)

Departmental guidelines that are relevant to this objective include the following.

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)

The TASER is a less lethal hand-held electronic immobilization device used for controlling assaultive/high risk persons. (LASD FOSS Newsletter 20-16: Less Lethal From an Elevated Platform)

FINDINGS

In all, the auditors concluded that 10 of the 26 cases (38%) in the audit sample involved uses of force that were unnecessary and inconsistent with the SA and Department policy. In three of the 26 cases, the out-of-policy force used was directed by a sergeant.

The auditors found that five of the 26 cases (19%) involved the UOF against handcuffed individuals. Three of those cases involved the deployment of oleoresin capsicum (OC) spray on subjects, including a 15-year-old girl, who were handcuffed and secured in the back seat of a patrol vehicle.

All 26 of the cases selected for this audit were classified as in policy by the station captains and North Patrol Division (NPD).⁹

The following are the 10 cases found out of policy and non-compliant by the auditors.

L-2. Following a vehicle pursuit and then a brief foot pursuit of a burglary suspect, the suspect stopped and raised his hands. The deputy ran toward the suspect, who started to slightly turn toward his left, at which point the deputy tased him without warning. The suspect fell to the ground; multiple deputies attempted to handcuff him, and he did not appear to resist. The primary deputy placed his Taser against the suspect's buttocks and told him to place his hands behind his back or he would be tased again. His hands were already behind his back and another deputy gripped both his arms. Within seconds of warning that he would be tased a second time, the primary deputy activated another five second cycle of his Taser as the man repeatedly apologized. Though the first Taser activation was conducted without warning, this was a very high-risk and fluid encounter that we assessed as consistent with Department policy. However, the second activation of the Taser was unnecessary given that the suspect was on the ground and two other deputies were controlling his arms.

L-3. Deputies were transporting a handcuffed female joy-riding suspect in the back of their patrol car when she yelled and screamed and kicked the door/window area of the patrol vehicle and spat on the divider separating the front and back seats. Some of the spit reportedly struck the passenger deputy, who had his partner immediately pull over. He exited the patrol vehicle, opened the rear door, and immediately sprayed the woman with OC. A sergeant and additional units arrived, and as they formulated a plan to extract her from the car and apply a hobble restraint, she began kicking the window. At the direction of the sergeant, the deputy opened the vehicle door and sprayed the woman with a second burst of OC. She was then extracted from the patrol vehicle and a hobble restraint was applied. Both uses of force were unnecessary and inconsistent with the SA and Department policy, and there was ample opportunity to attempt to de-escalate the situation. The MT also assessed the first UOF as retaliatory.

L-5. Multiple deputies responded to a radio call at a party with shots fired and a male victim struck by gunfire. One of the deputy's BWC recordings shows he located the gunshot victim in the back seat of a car. He determined the victim was bleeding from his leg. He administered emergency first-aid pending the arrival of LA County Fire, who arrived promptly and took over the treatment of the victim. The deputy's actions were professional and commendable. With that said, the gunshot victim's brother (the

⁹ The station captains are also referred to as unit commanders in this report.

subject), who has a history of bipolar disorder, arrived on scene and attempted to approach his brother who was being worked on by paramedics. Deputies stopped him, and he purportedly tried to push past them. One of the deputies reported that he clenched his fists. Three deputies conducted a UOF using firm grips and control holds to restrain the subject, who remained standing. The 235-pound subject initially mildly resisted deputies, but he was not assaultive or combative; he was concerned for his brother. A fourth deputy, who had been speaking with five other deputies nearby, ran up to the incident, stated, "Taser, Taser, Taser," and tased the subject from close range. The subject fell to the ground. The deputies reported that the subject resisted, and they had difficulty getting his hands behind his back for handcuffing. The deputy deployed the Taser again, in three-point contact mode, and the subject was handcuffed. *LASD FOSS Newsletter 20-16* provides guidance for the use of a Taser: "The Taser is a less lethal hand-held electronic immobilization device used for controlling assaultive/high risk persons." The subject's actions were not assaultive or high risk, and he was not given an opportunity to comply after the Taser announcement. The "Taser, Taser, Taser" alert by the deputy was directed at the other deputies and did not constitute a Taser warning to the subject as per policy. There were approximately nine deputies in the immediate vicinity. The use of a Taser was unnecessary and inconsistent with the SA and Department policy.

L-7. Two deputies were taking a homeless man suspected of felony vandalism into custody when he tried to pull away from them. One deputy grabbed the subject and took him to the ground. The second deputy stated, "Taser," and deployed his Taser in dart mode, without warning the subject and even though his partner had control of the subject in a headlock. The subject yelled out in pain, and, while the Taser was being activated, the deputy deploying the Taser yelled for the subject to roll over, which is problematic given that he was being tased and may have been experiencing neuromuscular incapacitation (NMI) and thus would have been unable to follow the deputy's commands. The use of the Taser was not necessary and was inconsistent with Department policy and directives because the subject's actions were not assaultive or high risk, and the subject was not warned and given a chance to comply.

L-8. A 15-year-old, 5'4" 120-pound female misdemeanor vandalism suspect, who had had an emotional outburst, including pulling things off the walls and desks, at the Department of Children and Family Services (DCFS), was detained, handcuffed, and placed in the back seat of a patrol vehicle. It was midday in August in the AV. She began kicking the car door, complaining that it was hot. The deputy got out of the car and told the subject, "You need to stop." At that same time a sergeant walked up to the patrol vehicle and the girl kicked the door again. The sergeant immediately and repeatedly told the deputy to spray her with OC, which the deputy did. The sergeant should have tried to de-escalate the situation with the girl and increase the ventilation in the back seat of the car, instead of directing that the handcuffed minor be sprayed with OC. The UOF was unnecessary and inconsistent with the SA and Department policy.

L-10. Two deputies detained an intoxicated homeless man for trespassing at a closed gas station. After handcuffing him, they began walking him toward the patrol vehicle. The subject repeatedly asked why he was being detained and said he wasn't going to get in the patrol vehicle. The deputies did not inform him of why he was being detained. The BWC shows that, while the subject was in mid-sentence, a deputy did a takedown on the handcuffed subject, slamming him to his back on the pavement. The deputy's reported rationale to use force—that the subject was resisting—was a misstatement. The UOF was unnecessary and inconsistent with the SA and Department policy.

P-8. When a fight broke out at a high school football game, numerous deputies responded, school officials canceled the game, and everyone was ordered to leave the school. As deputies cleared the field, a 16-year-old male tried to enter the school to find his sister in the crowd. The deputies told him that he could not come into the stadium. The subject then stated that he needed to find his sister and attempted to walk past the deputies. One of the deputies extended his hand, and the subject either pushed or slapped it down and tried to walk past the deputy, again stating he needed to find his sister. Six deputies grabbed onto the subject as he held on to the railing of the bleachers. A deputy said "Taser, Taser, Taser" and then tased the subject without giving him a proper warning and an opportunity to comply. The teenager's actions were not assaultive or high risk, and the tasing UOF was unnecessary and inconsistent with the SA and Department policy and directives.

P-9. A deputy responded to a "man down" radio call and located an extremely intoxicated man sitting in the driver's seat of a car with the door open and engine running. The deputy arrested him for DUI, handcuffed him, and placed him in the back seat of a patrol vehicle. The man began yelling that he was in pain, so the deputy opened the car door, at which point he purportedly saw the man was trying to bring his hands in front. The deputy brought him out of the car to re-secure the handcuffs, but the man resisted, so he was taken down to the ground and a hobble restraint device was applied. As the deputy was applying the hobble restraint on the subject's ankles, the subject began spitting in his direction. A spit mask was applied over the subject's head, and deputies carried the subject back to the patrol vehicle and seated him in the back seat. Subsequently, the BWC recording shows that the subject kicked the backdoor and window area of the patrol vehicle and yelled that he could not breathe. The deputy told the subject if he kicked one more time he was going to get sprayed with OC. As the deputy opened the door to check on the subject, he kicked at the door. The deputy then removed the subject's mask and sprayed him with OC. To explain this use of force, the deputy reported that the subject moved his body forward, bent his knees, and attempted to kick him, which is a misstatement. Another deputy's report was consistent with the BWC recordings: "I could see he was attempting to kick the driver's side rear window. Deputy [name] and I went to contact the suspect to prevent him from damaging / breaking the window. I could see the suspect kicked both of his feet toward Deputy [name] as the door opened and yelled he couldn't breathe. The suspect began to sway his body back and forth and continued to scream. I saw Deputy [name] take off the spit mask and apply an approximate three second burst of Oleoresin Capsicum [OC] spray to the suspect's face."

P-11. A homeless man (driver) was stopped for a traffic violation. A deputy approached the driver, unholstered his firearm, and pointed it at him. The deputy asked the driver to put his hands on the steering wheel. In his report, the deputy wrote that he feared the driver was reaching around near his lap, and because he could not see his hands, the deputy feared he was reaching for a firearm. The deputy's BWC recording clearly shows that the driver was retrieving his identification from his wallet, which was in his lap. The driver then handed the deputy his driver's license, and the deputy continued to order the driver to put his hands on the steering wheel. The driver would intermittently place his hands on the steering wheel, then on the door frame, then in his lap. He asked the deputy why he was pointing his gun at him, and the deputy replied because he was not cooperating. The deputy pointed his firearm at the driver for more than five minutes and requested assistance. Multiple deputies responded, along with two supervisors. After the other deputies arrived, the driver rolled up the window. The deputy told him to lower it, and he refused. A different deputy approached the driver's window; while the driver was looking directly at the window from approximately two inches away, without warning, the deputy used a window punch to shatter the window directly in the driver's face.

The driver became infuriated, directed profanity at the deputies, and started picking up broken pieces of glass and throwing them out of the window. A different deputy approached the driver's window with a Taser drawn and did a good job attempting to de-escalate the situation for approximately seven minutes. The deputy introduced himself and repeatedly told the infuriated driver that he could file a claim for damages. He was able to get the driver to step out of his vehicle. Another deputy approached the driver and asked him to place his hands behind his back so he could be searched. The driver again complained about his window being shattered and was told it would be paid for. He was again asked to please place his hands behind his back. He tensed up, closed his fists, and crossed his arms across his chest. The BWC recordings show that he was not assaultive but started to pull slightly away then turned slightly toward the searching deputy with his arms still crossed across his chest. At this point, the searching deputy pushed him forward toward the deputy with the Taser, who tased him. The deputies escalated the situation by unnecessarily pointing a firearm at the driver for an extended period of time, then a different deputy shattered the driver's window directly in his face. The deputy who tased the driver may have reasonably perceived the driver's actions as assaultive, but did not realize that another deputy had pushed the driver toward him. The deputies' actions escalated the situation, which should have been resolved with a traffic citation or warning. The UOF was avoidable, and the tactics used were inconsistent with the SA, Department policy, and training.

P-13 Deputies responded to a family disturbance call. When they interviewed the suspect's sister, she stated he (her brother) threatened to kill her. The suspect was located inside a trailer on the property. The deputies knocked on the trailer door and the suspect emerged shirtless. Someone inside the trailer, later learned to be his wife, from behind the door handed him a shirt, which he put on. The suspect, in a calm voice, told the deputies that his mother had been drinking and that he knew they would be coming. The primary deputy told the suspect, "Right now, I need you to turn around, put your hands behind your back." The suspect responded that he was not going to do that and that "I need to know why." The deputy pointed a Taser at the suspect and the suspect responded, "I don't give a [explicative deleted] what that is. Why are you arresting me?" While the suspect was talking, the deputy told him, "I'm letting you know, turn around right now or you are going to get tased." The suspect stated, "I don't care. Listen," and then turned to his left side facing one of the deputies and said, "This is [explicative deleted] simple," at which point he was tased. He screamed out in pain and fell to the ground. In the deputy's report he wrote that the suspect resisted handcuffing and that he was afraid he was reaching for a weapon, so he tased him a second time. That is not captured on the BWC recording due to the proximity of the deputies from the suspect. The suspect's actions before both Taser deployments were not assaultive or high risk, and the deputy's rationale for the force was unreasonable and inconsistent with the BWC recordings. The UOF was unnecessary and in consistent with the SA and Department policy.

SA COMPLIANCE

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 not in compliance with SA Paragraphs 102, 104, and 105. Monitors found 10 of the 26 cases in the audit sample as out of compliance, which equates to a compliance finding of 62%.

The Department is in sustained compliance with SA Paragraph 107. There were no cases in this audit sample that involved the use of an impact weapon, and there have been no cases in any of our UOF audits where a deputy delivered a head strike with an impact weapon to a person's head.

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

Finding: The Department is in compliance with SA Paragraph 106g, which prohibits the Department from interfering or using force to prevent a witness from lawfully recording deputies' actions. There were several cases in the audit sample that included witnesses recording video. For example, Audit No. P-1 involved a "First Amendment Auditor" who followed deputies engaged in an arrest, recorded them, and then uploaded his recording on YouTube. There have been no instances in any of our audits where witnesses were not allowed to record an incident.

OBJECTIVE 2: TACTICS, AVOIDING FORCE, AND DE-ESCALATION

RELEVANT SA PARAGRAPHS AND DEPARTMENTAL GUIDELINES

LASD agrees to . . . use force as a last resort and de-escalate the use of force at the earliest possible moment. (SA p. 24, 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. (SA Paragraph 103)

Departmental guidelines that are relevant to this objective include the following.

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)

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)

The TASER is a less lethal handheld electronic immobilization device used for controlling assaultive/high risk persons. (LASD FOSS Newsletter 20-16: Less Lethal From an Elevated Platform)

FINDINGS

Auditors concluded that the tactics used, or not used, including de-escalation efforts, in the following 12 cases of the 26 in the audit sample (46%) were inconsistent with the SA and Department policy.

L-2. Following a vehicle pursuit and then a brief foot pursuit of a burglary suspect, the suspect stopped and raised his hands. The deputy ran toward the suspect, who started to slightly turn to his left, at which point the deputy tased him without warning. The suspect fell to the ground, multiple deputies attempted to handcuff him, and he did not appear to resist. The primary deputy placed his Taser against the suspect's buttocks and told him to place his hands behind his back or he would be tased again. His hands were already behind his back, and another deputy gripped both his arms. Within seconds of warning that he would be tased a second time, the primary deputy activated another five second cycle of his Taser as the man repeatedly apologized. He was then handcuffed. Following the initial Taser activation, the deputies had an opportunity to de-escalate the situation and order the suspect to submit to arrest and give him time to comply with a Taser warning; however, they did not do so.

L-3. Deputies twice used OC spray on a handcuffed female joy-riding suspect after she spat and kicked the door in the back of their patrol car. Both uses of force were unnecessary and inconsistent with the SA and Department policy, and there was ample opportunity to attempt to de-escalate the situation. The MT also assessed the first UOF as retaliatory.

L-4. Multiple deputies responded to a radio call about a stabbing, which indicated that the stabbing suspect was a Black female and that a suspect placed a gun in a vehicle. The deputies systematically cleared multiple cars at the location. They detained four female suspects and one male suspect. They continued searching for vehicles, and one of the vehicles they searched was an SUV parked in a red zone. The deputies' arrest report stated that while deputy personnel searched the SUV for a possible victim, a Black male adult approached deputy personnel. A review of deputies' BWC recordings shows that this statement was not factual regarding when the subject approached the deputies: the deputies had completed the search of the subject's SUV and were in the process of searching another vehicle when he approached. The deputies repeatedly told the subject to stop. The subject continued walking in their direction and twice stated he was hard of hearing. The subject (6'05", 280 pounds) complained that deputies "opened my vehicle without my permission." He was given multiple directions. He continued to assert that his constitutional rights had been violated. The deputies handcuffed and detained the subject and escorted him to a patrol vehicle. A sergeant directed the deputies to place the subject in the back seat of a patrol vehicle. When they told the handcuffed subject he was going to be placed in the back seat of the vehicle, he resisted and pushed himself backward into the deputies. He was taken to the ground and a hobble restraint was applied. The subject did not remotely fit the

description of the wanted suspect, who was described as a female. He was nonetheless detained while asserting his constitutional rights associated with the searching of his vehicle and his detention. The sergeant should have slowed things down, spoken with the subject in a calm tone, and de-escalated the situation, instead of ordering the subject be placed in the back seat of the patrol vehicle, which escalated the situation. The subject had broken no laws and was complaining that his vehicle had been unlawfully searched. This UOF could have been avoided.¹⁰

L-5. The involved deputies should have slowed things down and tried talking to and de-escalating a man who arrived on the scene where his brother had just been shot. The unit commander recognized this failure in his review and directed that the deputies receive de-escalation training. However, the unit commander did not address that the deputies did not provide the subject with a reasonable opportunity to comply before tasing him, as required by Department policy, and he did not indicate that the UOF and/or tactics used were out of policy and inconsistent with the SA, which they clearly were.

L-7. Two deputies were taking a homeless man suspected of vandalism into custody when he tried to pull away from them. One deputy grabbed the subject, took him to the ground, and was holding him in a quasi-headlock when the second deputy stated, "Taser," and deployed his Taser in dart mode, without appropriate warning to the subject and even though his partner had control of the subject in a head lock. The subject yelled out in pain. While the Taser was being activated, the deputy deploying the Taser yelled for the subject to roll over, which is problematic given that the subject was being tased and may have been experiencing neuromuscular incapacitation (NMI) and thus would have been unable to follow the deputy's commands. There was clearly an opportunity to attempt to de-escalate the situation before tasing the subject—he was not aggressive or combative, and the use of the Taser was not consistent with Department policy or the SA.

L-8. A 15-year-old girl at the Department of Children and Family Services (DCFS) office had an emotional outburst, including pulling things off the walls and desks. Deputies took her into custody, handcuffed her, and put her in the back seat of the patrol vehicle. It was midday in August in the AV. She began kicking the vehicle's door, complaining that it was hot. The deputy got out of the patrol vehicle and told the subject, "You need to stop." At that same time a sergeant walked up to the patrol vehicle and the girl kicked the door again. The sergeant immediately and repeatedly told the deputy to spray her with OC, which the deputy did. The sergeant should have de-escalated the situation with the girl—which the deputy had started to do—and increased the ventilation in the back seat of the car, instead of directing the handcuffed minor be sprayed with OC.

L-10. After handcuffing an intoxicated homeless suspect for trespassing at a closed gas station, deputies repeatedly did not answer his question as to why he was being detained. The subject said he wasn't going to get in the patrol vehicle. Deputies BWC recordings clearly show that while the handcuffed subject was in mid-sentence, a deputy inexplicably did a takedown on him, slamming him to the pavement. The deputies failed to use appropriate tactics, to inform the subject why he was being detained, or to de-escalate the intoxicated and handcuffed subject before using unnecessary force.

¹⁰ See the discussion of L-4 in Objective No. 5, for issues associated with the managerial review and the inappropriate searches of multiple vehicles at the scene.

P-2. Deputies stopped a car for a traffic violation; the passenger fled, and the deputies lost sight of him. Deputies became aware that he had an outstanding no bail warrant. Several minutes after the passenger fled, a set of keys were recovered on the lawn of the residence, and a deputy unlocked and opened the front door of the residence, and only then announced himself as a deputy. A 70-year-old woman, who only spoke Spanish, came to the door and refused to come out of her house. She insisted she had done nothing wrong and threatened to sue the Department. After several minutes, a sergeant directed deputies to take the woman into custody. When they attempted to do so, she slightly resisted, and they used firm grips to overcome her resistance and handcuff her. The opening of the front door without first identifying oneself as a law enforcement officer was a dangerous tactic and not consistent with training: it could have resulted in a catastrophe. The sergeant should have taken charge, de-escalated the situation, determined whether a hot pursuit factually existed, and, if not, pursued other investigative options, such as conducting a surround and call-out of the residence for the fleeing suspect, or obtaining a search warrant.

P-8. High school officials closed the campus and ordered everyone to leave after a major fight broke out at a high school football game. Six deputies were standing near the entrance of the stadium when a 16-year-old male subject tried to enter to find his sister. The deputies refused him entrance, so he tried to walk past them. A deputy held up a hand to stop him, and he told the deputies that he had to find his sister, "I need to find my [explicative deleted] sister, bro," and he either pushed or slapped the deputy's hand aside. The deputies grabbed the subject, and he grabbed on to the bleacher railing. A deputy deployed his Taser without appropriate warning and without giving the subject an opportunity to let go of the railing. Six deputies were there, and they had every conceivable opportunity to slow things down and de-escalate the teenager, who was concerned for his sister's well-being, and resolve this situation tactically and methodically without tasing him.

P-9. A deputy responded to a "man down" radio call and located an extremely intoxicated man sitting in the driver's seat of a car with the door open and engine running. The deputy turned the engine off, had the subject exit the car, arrested him for DUI, and handcuffed him. Two more deputies arrived, and one of them walked the man to his patrol car and put him in the back seat. The man began yelling he was in pain, so the deputy opened the car door, at which point he purportedly saw the man was trying to bring his hands in front. The deputy brought the man out of the car to resecure the handcuffs, but the man resisted and began spitting, so he was put on the ground. A hobble and spit mask were applied, and he was put back in the car. The subject kicked the backdoor and window area of the patrol vehicle and yelled that he could not breathe. When a deputy opened the car to check on him, the man allegedly bent his legs, which the deputy purportedly interpreted as preparatory to kicking him. However, rather than increase distance from the subject and get out of kicking range, the deputy leaned into the patrol vehicle, removed the subject's spit mask, and sprayed him with OC. The deputy should have slowed things down and tried to de-escalate the subject.

P-11. A deputy conducting a traffic stop drew his handgun and continually pointed it at the driver after he did not consistently follow the deputy's commands to keep his hands on the steering wheel. At one point, the BWC recording shows the driver removing his driver's license from his wallet and hand it to the deputy. The driver was uncooperative but was not conducting himself in a threatening manner. When back-up arrived, the driver rolled his window up and refused to lower it. While the driver was looking at the window, with his face about two inches away from the glass, a deputy used a window punch and shattered the window in the driver's face. The deputies' tactics—pointing the handgun at the

driver and shattering the window in his face—were dangerous and inconsistent with training, escalated the situation, and had a high likelihood of resulting in injury.

P-13. Deputies responded to a family disturbance call. The deputies went to the subject’s trailer and knocked on the door. The subject came out and spoke with the deputies in a calm voice. A deputy told him to turn around and put his hands behind his back. He asked why he was being arrested several times, but the deputy didn’t answer and pointed a Taser at him, telling him if he didn’t do as instructed he would be tased. The subject stated he was not concerned about the Taser and calmly spoke with the deputies, again asking why he was being arrested. When he turned toward one of the deputies, saying, “This is [explicative deleted] simple,” he was tased. The deputy’s report indicated the subject resisted handcuffing and that he was afraid he was reaching for a weapon, so he tased him a second time. That is not captured on the BWC recording because of the close proximity from the deputies to the subject. Nevertheless, it was clear there was ample opportunity to attempt to de-escalate the situation and take the subject into custody without tasing him.

SA COMPLIANCE

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 de-escalated the use of force immediately as resistance decreased.¹¹*

Finding: The Department is not in compliance with SA **Paragraph 103**. Monitors found 12 of 26 cases in the audit sample as out of compliance, which is a compliance finding of 54%.

OBJECTIVE 3: REPORTING USES OF FORCE

RELEVANT SA PARAGRAPHS AND DEPARTMENTAL GUIDELINES

LASD agrees to continue to require deputies to report all uses of force above un-resisted handcuffing. (SA Paragraph 108 Part 1)¹²

LASD agrees to continue to require deputies who use or observe force to notify their supervisors immediately following any reportable use of force incident. (SA Paragraph 110 Part 1)¹³

LASD shall continue to require Antelope Valley deputies to completely and accurately describe the force used or observed, including describing in detail the actions of the suspect necessitating the

¹¹ The simple announcement of possessing a Taser, without providing a warning with an opportunity for compliance, when reasonably practical, does not constitute a warning.

¹² For compliance purposes we have separated Paragraphs 108, 109, and 110 into two parts as indicated.

¹³ Paragraph 110 Part 2 requires that deputies notify their supervisors of any allegations of excessive force, and if they fail to do so, they will be subject to discipline up to and including termination. That aspect of SA Paragraph 110 will be assessed in our next complaint audit.

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. (SA Paragraph 108 Part 2)

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. (SA Paragraph 109 Part 1)

Deputies shall be held accountable for material omissions or inaccuracies in their use of force statements, which may include being subject to disciplinary action. (SA Paragraph 109 Part 2)

The Department Manual also requires that UOF 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)

FINDINGS

In this, and in our previous UOF audits, we have found that deputies consistently and promptly notify a supervisor when they become involved in a UOF.

In our previous audits, we found no significant inaccuracies in deputies' UOF reports. However, this is our first audit in which BWC recordings were available for review. BWC recordings notwithstanding, deputies are required to report what they observed and perceived during UOF incidents, even if their observations and perceptions differ from what their BWC recordings or any other recordings depict. The investigating supervisors are required to note such inconsistencies in their investigation, but the reports should always reflect the writers' perceptions even if they later realize these were incorrect. Although we made prudent allowances for that in our findings, we did find material inconsistencies, conflicting statements, misstatements, discrepancies, and the use of canned or boilerplate language in the following eight cases that were inconsistent with the SA and Department policy.

In all, the auditors concluded that eight of the 26 cases (31%) were not in compliance with regard to deputy reporting.

L-3. A female adult arrested for joy riding was handcuffed and secured in the back seat of a patrol car when a deputy opened the car door and deployed OC after she had spat toward one of the deputies. Both deputies used boilerplate language in their reports expressing concern that the handcuffed subject would escape from the patrol car. This should have been addressed in the review process.

L-4. There were inconsistencies in the deputy's arrest report in that it indicated the subject may have interfered with the deputies' search of his vehicle. This was not the case as the subject approached after

the search of his vehicle had been completed and the deputies had moved onto search another vehicle. This should have been addressed in the review process.

L-7. The deputies' arrest reports included that they used force to take an adult suspected of assault with a deadly weapon into custody. However, the sergeant's investigation documented that at the time of the suspect's arrest, the deputies only knew he was wanted for felony vandalism. The deputies' reports were not corrected.

L-8. OC was used on a 15-year-old girl who was handcuffed and secured in the back seat of a patrol vehicle. The deputy used canned and boilerplate language when she wrote that deputies were concerned the girl—5'4" 120 pounds, handcuffed, secured in the back seat of a patrol vehicle, with the deputy and a sergeant standing right there—posed an escape risk. This should have been addressed in the review process.

L-10. Two deputies detained an intoxicated homeless adult male man for trespassing at a closed gas station. The BWC recording shows that while the handcuffed subject was in mid-sentence, the deputy inexplicably did a takedown on the subject, slamming him on his back on the pavement. In his force rationale, the deputy used canned and boilerplate language that was inconsistent with the BWC footage when he wrote the subject was resisting and might headbutt him. The subject was asking a question and was not resisting when he was taken down to the ground, and the deputy's reported statement that he was is a misstatement. This should have been addressed in the review process.

P-2. The deputies' reports had material conflicting statements of where they saw the suspect run. The primary deputy reported that the suspect fled over a fence and that he lost sight of him. His partner wrote that the primary deputy said the suspect ran into a residence. The deputies found keys to the residence in the front lawn of the residence and unlocked and opened the front door without first announcing they were peace officers. Making matters worse, the unit commander wrote that the deputies were in hot pursuit and found the door to the residence ajar, which is not true. These issues should have been addressed in the NPD review process and were not.

P-9. The primary deputy's report and his partner's supplemental reports had inconsistencies with each other and with BWC footage regarding the sequence of events and why force was used on the handcuffed, extremely intoxicated subject seated in the back seat of a patrol vehicle. The primary deputy's report states: "I removed the spit mask from the suspect to open his airways and not restrict his ability to properly breathe . . . the suspect moved his body forward, bent his knees and attempted to kick me. . . . I sprayed my Oleoresin Capsicum (OC) spray for approximate 3 second burst." The deputy's report is a misstatement and was not consistent with his partner's statement or the BWC recordings, which do not capture any indicia that the subject was attempting to kick the deputy. His partner's supplemental report included: "I could see the suspect kicked both of his feet toward Deputy [Name] as the door opened and yelled, he couldn't breathe. The suspect continued to sway back and forth and continued to scream. I saw Deputy [Name] take off the spit mask and apply an approximate three second burst with Oleoresin capsicum (OC) spray to the suspect's face." The discrepancies and the clearly out-of-policy and SA compliance use of force should have been addressed in the review process.

P-13. The BWC shows the subject of an investigation into a family disturbance failing to follow directions but talking in a calm manner asking why deputies wanted to arrest him. As he turned toward

one of the deputies while trying to explain the family dynamic, he was tased. But the reports portray him as aggressive with a blank stare, which is inaccurate and inconsistent with the BWC recordings, and that should have been addressed in the review process.

SA COMPLIANCE

Requirement: *Deputies are required to report all uses of force above un-resisted handcuffing. (Paragraph 108 Part 1, Paragraph 110 Part 1)¹⁴*

Finding: The Department has achieved sustained compliance with the UOF reporting requirements of SA Paragraphs 108 Part 1 and 110 Part 1. We have found no indicia of unreported force in this or any of our UOF audits. The use-of-force compliance standards do not include a quantitative metric to measure compliance with the SA requirements for deputies reporting the UOF in Paragraphs 108 Part 1 and 110 Part 1. However, the overwhelming evidence continues to show the Department is compliant with the SA requirements that deputies who use or observe force immediately report the UOF to a supervisor. In this and in all of our previous UOF audits, there have been no instances with indicia that a deputy failed to report a UOF.

Requirement: *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. (SA Paragraph 108 Part 2)*

The use of force reporting policy shall explicitly prohibit the use of conclusionary statements without supporting detail, including "boilerplate" language in all statements and reports documenting the use of force. (SA Paragraph 109 Part 1)

Finding: The Department is not in compliance with SA Paragraphs 108 Part 2 and 109 Part 1. The SA and both the previous and revised UOF policy, which is in the final review stages by the Department, require complete and accurate reports and specifically prohibit the use of boilerplate language. The findings of this audit show that eight of the 26 UOF cases in the audit sample were not in compliance with these requirements, equating to a 69% compliance finding, which is below any reasonable percentage that would be agreed upon. The Department was in compliance for complete and accurate descriptions of any injuries or complaint of injuries and any medical treatment or refusal of medical treatment, but eight cases (L-3, L-4, L-7, L-8, L-10, P-2, P-9, P-13) did not meet the requirements for

¹⁴ Paragraph 110 Part 2 requires that deputies notify their supervisors of any allegations of excessive force, and if they fail to do so, they will be subject to discipline up to and including termination. That aspect of SA Paragraph 110 will be assessed in our next complaint audit.

complete and accurate descriptions of the actions of the suspect necessitating the use of force and the specific force used in response to the suspect's actions.

Requirement: *Deputies shall be held accountable for material omissions or inaccuracies in their use-of-force statements, which may include being subject to disciplinary action. (SA Paragraph 109 Part 2)*

Finding: The Department is not in compliance on SA Paragraph 109 Part 2. No deputies were held accountable for the material omissions in any the eight cases that were assessed as out of compliance for SA Paragraph 108 Part 2 (above), resulting in a 0% compliance finding for this requirement.

Recommendation 1: The parties need to establish a UOF compliance metric to measure compliance with the SA requirements for deputy reporting of uses of force (Paragraphs 108 and 110).¹⁵

OBJECTIVE 4: USE-OF-FORCE INVESTIGATIONS

RELEVANT SA PARAGRAPHS AND DEPARTMENTAL GUIDELINES

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. (SA 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;*

¹⁵ There are established compliance metrics for supervisors' reporting, but not deputies' reporting.

- 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; and*
- e. *Documentation of any training or tactical concerns, and/or corrective action taken or recommended. (SA Paragraph 112)*

The following paragraph was used to assess whether complaints arising from UOF investigations were 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. (SA Paragraph 130 partial)

Department policy provides guidance on the standard that is to be used for investigating Category 1 and 2 uses of force.

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

North Patrol Division Policy governing the investigation of an NCI force states:

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)

FINDINGS

Each case in the audit was in compliance regarding a non-involved supervisor conducting the use of force investigation. A supervisor was at the scene in 12 of the 26 cases in the audit samples (L-1, L-2, L-3, L-4, L-5, L-8, L-10, P-1, P-2, P-6, P-7, P-11). In three of the Lancaster cases (L-1, L-2, L-5), the witnessing supervisor also conducted the UOF investigation; however, in each case, that action was authorized by the on-duty watch commander due to the lack of additional supervisors' availability. In fact, in Audit No. L-5, the only other on-duty supervisor was conducting an unrelated UOF investigation. In two Palmdale cases, an on-scene supervisor conducted the investigation. One was an NCI, which allows the on-scene supervisor to conduct the investigation (P-6). In the other, the report documents that he was the only supervisor on-duty (P-7).

Each case in the audit sample was in compliance regarding the supervisor ensuring that the subject received medical treatment at the scene and was taken to a hospital for post-UOF evaluation.

The investigation for one case (P-1) was critically incomplete. Deputies did not have body cameras, and two material witnesses were not interviewed. Also, the investigation was not submitted to the unit commander until more than three months after the use of force occurred. The watch commander pointed out that the witnesses had not been interviewed, but by then they could not be located.

Seven cases were not in compliance for investigators reviewing all deputy UOF statements for adequacy, accuracy, and completeness. The material inconsistencies, conflicting statements, discrepancies, and use of canned or boilerplate language in seven of the eight cases cited under Objective 3, Reporting Use of Force, regarding SA Paragraph 109 Part 2 (L-3, L-4, L-8, L-10, P-2, P-9, P-13) were not addressed in the supervisors' investigations.¹⁶ The review processes should have identified these occurrences, made a determination as to whether they reflected mistakes or if they rose to the level of misrepresentations or falsehoods, and recommended appropriate corrective action.

Four of seven cases were not in compliance regarding initiating an SCR when allegations arose during an investigation. In three cases, misconduct was alleged and an SCR was initiated (L-4, P-1, P-8).¹⁷ However, in four other cases, SCRs should have been initiated but were not.

- In Audit No. L-1, the subject, who was under the influence of narcotics, alleged that a deputy used excessive and/or unnecessary force, and an SCR was not initiated. The subject was very sleepy and possibly still under the influence during the watch commander's interview. Minimally, he should have been reinterviewed at a later time, and there were no indications that occurred.
- In Audit No. L-10, the subject alleged excessive force and that he was slammed into the ground for no reason, and an SCR was not initiated.
- In Audit No. P-2, a 70-year-old woman alleged she was thrown into a wall and an SCR was not initiated.
- In Audit No. P-13, the subject alleged that he was tased without warning and without cause. The watch commander stated he reviewed the BWC recordings and opined that the subject's allegations were not substantiated. The Monitors reviewed the BWC recordings and assessed the tasing as clearly unnecessary and out of policy, and the watch commander should have initiated an SCR in accordance with Department policy.

In two cases, the investigations did not address that the conduct of personnel reflected markedly poor communication skills that were not in alignment with procedural justice principles. In L-1, the review should have addressed the watch commander's confrontational tone and refusal to answer the suspect's questions. In L-4, the review should have addressed that a deputy and the supervisor used inappropriate language that was not in alignment with procedural justice principles. A deputy, in

¹⁶ In Audit No. L-7, the deputies arrest report included that they used force to take an adult suspected of assault with a deadly weapon into custody. However, the sergeant's investigation documented that at the time of the suspect's arrest, the deputies only knew he was wanted for felony vandalism; despite this, the deputies' reports were not corrected.

¹⁷ In one of the three cases where a SCR was initiated (P-1), a witness, who described himself as a first amendment auditor, said he thought the deputies choked one of the arrestees without justification. However, that arrestee and his mother both made complaints that resulted in SCRs, and neither of them alleged the arrestee was choked.

response to the subject saying he could not breathe, responded "If you're talking, you're breathing," and the supervisor said to the subject "Are you going to shut up and listen to me?"

SA COMPLIANCE

The following previously agreed upon definitions were used for the Monitor's findings in this objective.

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. Critical deficiencies may include failure to interview a key witness; failure to obtain a statement from the supervisor directing a UOF; failure to obtain a statement from a supervisor present during a UOF; unreasonable failure to obtain a written statement from an involved or witness deputy; failure to gather or analyze a crucial piece of evidence; inaccurately summarizing a key witness's recorded statement in a material area.

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.

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. There were nine Category 1/NCI cases in the audit sample, and four of those cases (L-1, L-3, L-8, L-10) were assessed as having the aforementioned critical deficiencies, which equates to a 56% compliance finding.¹⁸

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 UOF cases. There were 17 Category 2 cases in the audit sample, and five of those cases (L-4, P-1, P-2, P-9, P-13) were assessed as having critical deficiencies, which equates to a 71% compliance finding.¹⁹

¹⁸ Category 1/NCI cases included: P-4, P-6, P-10, L-1, L-3, L-8, L-9, L-10, L-11.

¹⁹ Category 2 cases included: P-1, P-2, P-3, P-5, P-7, P-8, P-9, P-11, P-12, P-13, P-14, P-15, L-2, L-4, L-5, L-6, L-7.

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 not in compliance with NCI, Category 1, and Category 2 cases as a group. There were 26 cases in the audit sample, and nine of those cases (L-1, L-3, L-4, L-8, L-10, P-1, P-2, P-9, P-13) were assessed as having critical or non-critical deficiencies, which equates to a 65% compliance finding.

OBJECTIVE 5: MANAGEMENT REVIEW OF USE-OF-FORCE INVESTIGATIONS

RELEVANT SA PARAGRAPHS

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, and 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)

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

The following paragraph was used to assess whether management review confirmed that any complaint arising from a UOF 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. (SA Paragraph 130 partial)

Compliance with the following paragraph is evaluated in the MT's audits of UOF cases reviewed by the Executive Force Review Committee (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. (SA Paragraph 114)

FINDINGS

The auditors found the adjudication was out of compliance in 19 of the 26 cases in the audit sample, including 11 of 11 (100%) of Lancaster's adjudications and 8 of 15 (53%) of Palmdale's adjudications.

These included five cases in Palmdale for which more than four months passed between the use of force and the unit commander's approval of the investigation. Unacceptable delays in use-of-force investigation approval processes greatly reduce the possibility of an effective risk management response to these high-risk law enforcement activities.

The following are the 19 cases that had critical deficiencies that were not addressed during the management review processes:

L-1. During the watch commander interview, the suspect alleged the arresting deputies used excessive force. The watch commander attempted to get additional details from the suspect, who appeared very sleepy and possibly under the influence of alcohol and or drugs, but the suspect was uncooperative. During their conversation, the suspect asked the watch commander questions, which he did not answer. The watch commander asked him questions, and he replied that because the watch commander would not answer his questions, he declined to answer the watch commander's. The watch commander told the suspect he had one more chance to answer his questions, the suspect declined to do so, and the interview ended. The watch commander acknowledged the allegation but did not initiate an SCR. The unit commander should have noted that the watch commander could have conducted the interview with more patience and de-escalation tactics and should have directed that the suspect be reinterviewed when he was no longer sleepy and/or under the influence.

L-2. The subject ran into the desert following a vehicle pursuit. The BWC recording show him raising his arms when a Taser was deployed without warning. He was also tased a second time during the handcuffing procedure. He was not interviewed by the UOF investigator or the watch commander. The reviewing lieutenant indicated that the subject was released before this oversight was discovered, but there are no indicia that there were any attempts to contact the subject and interview him after his release, and this issue was not addressed during the adjudication.

L-3. The NPD review correctly pointed out that the subject was detained in the back seat of the radio car, and the deputies had removed themselves from her potential spitting. However, the review nonetheless found the force used as in policy, and it was clearly out of policy for the tactics employed, retaliation, lack of de-escalation, and force used.

L-4. The adjudication did not address the lack of reasonable cause to detain the subject, nor did it address significant inconsistencies between the deputies' reports and BWC recordings or that there were a whole host of unconstitutional searches of vehicles. While it might have been appropriate to look for possible victims in the vehicles at the location, that does not extend to a search for contraband. The review also should have addressed that a deputy and the supervisor used inappropriate language that was not in alignment with procedural justice principles. A deputy, in response to the subject saying he could not breathe, responded, "If you're talking, you're breathing," and the supervisor said to the subject, "Are you going to shut up and listen to me?"

L-5. The adjudication did not address significant elements of the UOF, including the numerical superiority of deputies, the unnecessary use of a Taser, and the deputies not providing the subject with a reasonable opportunity to comply before tasing him.

L-6. The adjudication addressed whether the force was objectively reasonable but did not address if it was consistent with Department policy, which has many other requirements besides the reasonableness of the force. It also did not address the opportunity to de-escalate the situation or ensure training was provided for deputies whom the sergeant stated were deficient in communicating with the subject.

L-7. The adjudication did not address the lack of a Taser warning or that the deputy's commands to the subject were unreasonable because the subject was being tased, so he was likely physically incapable of following the commands. The adjudication also did not address the fact that the deputies did not know the subject had committed an assault with a deadly weapon until after the deputies used force on him.

L-8. The adjudication did not adequately address the use of OC on a handcuffed 15-year-old girl in the back seat of the patrol vehicle.

L-9. The adjudication did not address the deputies' failure to answer the subject's repeated question about why she was being detained. Also, the unit commander assessed that the UOF was objectively reasonable, but he did not make a finding on policy compliance.

L-10. The adjudication did not address the following: that deputies repeatedly failed to tell the subject why he was being detained, even though he repeatedly asked; that the subject alleged excessive force and that he was slammed to the ground for no reason, yet an SCR was not initiated; the credibility issues associated with the deputy's rationale for doing a takedown on the handcuffed subject; and the inconsistencies between the BWC recordings and the deputy's report. The review processes should have made a determination as to whether these issues reflected mistakes or if they rose to the level of misrepresentations or falsehoods and recommended appropriate corrective action.

L-11. The adjudication concluded the force was objectively reasonable but did not assess compliance with Department policy.

P-1. The UOF occurred on July 2, 2022, but the case was not submitted until October 26, and the unit commander did not approve it until December 11, because, he reported, his review "was delayed due to other administrative paperwork and projects." The unit commander did not review the investigation until five months after the incident occurred, and by then they were unable to locate two material witnesses who had not been interviewed.

P-2. The UOF occurred on July 12, 2022, but was not submitted to the unit commander until September 21, and he did not approve it until December 27, because his review "was delayed due to other administrative paperwork and projects." The unit commander failed to identify and resolve the conflicting statements associated with the suspect's fleeing from the deputies, and if he had been seen running into the house. The unit commander erroneously wrote that the front door of the residence was ajar, which none of the deputies said, and the BWC recordings show that the closed door was unlocked by a deputy. The unit commander did not comment on the dangerous tactic of the deputy opening the door to the residence before he announced he was a peace officer. The unit commander also wrote that the deputies were in "hot pursuit" even though one of the deputies said that they had lost sight of the suspect and several minutes had passed by. Finally, during the watch commander's interview, the 70-year-old woman alleged, "Deputies grabbed her arms and pulled her out of the house and threw her against the wall." The watch commander did not deem this as an allegation and did not

initiate an SCR. A thorough management review should have taken place pursuant to the numerous problematic issues associated with this UOF, and that clearly did not happen.

P-8. The UOF occurred on August 19, 2022, but was not approved by the unit commander until January 13, 2023, because, he said, "My review was delayed due to other administrative paperwork and projects." The unit commander failed to identify that deploying a Taser to subdue a teenager who was only holding onto a railing, with six deputies present, because he was concerned for his sister's well-being was unnecessary and inconsistent with Department policy.

P-9. The UOF occurred on August 27, 2022, and was submitted to the unit commander on September 15. The unit commander did not adjudicate the investigation for four months, until January 14, 2023. The unit commander failed to identify that deputies' reports associated with the OC spraying of a handcuffed and hobbled intoxicated subject in the back seat of a patrol vehicle were inconsistent with one another. He also failed to recognize that the report by the deputy who sprayed the subject with OC was inconsistent with his BWC recording, and that the UOF was unnecessary and inconsistent with Department policy. The review processes should have made a determination as to whether these issues reflected mistakes or if they rose to the level of misrepresentations or falsehoods and recommended appropriate corrective action.

P-10. The UOF occurred on September 4, 2022, and was submitted to the unit commander on October 27, but he did not approve the investigation for four months, until January 15, 2023. Then the unit commander failed to identify that deputies kept a handcuffed female subject on her chest for approximately 30 seconds after she stated she could not breathe or indicate the inappropriateness of escorting the woman to a patrol vehicle on a busy street while she was partially disrobed.

P-11. The UOF occurred on September 26, 2022, and was submitted to the unit commander on October 9, but he did not approve it for three months, until January 15, 2023. The unit commander failed to identify the prolonged, unnecessary pointing of a firearm at a traffic violator, and that a deputy escalated the contact when he used a window punch to shatter the driver's window into the man's face, which was about two inches from the window. He also failed to address that a deputy pushed the traffic violator, whose arms were crossed across his chest, when he mildly resisted handcuffing toward another deputy, who perceived the subject to be advancing on him and tased him.

P-13. The UOF occurred on September 17, 2022, and was submitted to the unit commander on November 8, 2022, but he did not approve it for four months, until January 21, 2023. The unit commander failed to identify that a subject was unnecessarily tased while he was speaking with deputies and asking why he was being arrested. In his interviews, the subject alleged he was tased without warning and without cause. The watch commander stated that he reviewed the BWC recordings and that they did not substantiate those allegations. We categorically disagree with that position, and even if that was the watch commander's erroneous opinion, he should have nonetheless initiated an SCR in accordance with Department policy. The unit commander supported that decision, but he should have ensured an SCR was initiated.

P-15 This UOF occurred on September 20, 2022, and was forwarded to the watch commander on October 17. The watch commander approved it on December 28, and the unit commander on January 22, 2023. The unit commander failed to take appropriate action in this case where the female

subject of the deputies' minimal force alleged multiple times that the person reporting on the radio call that led to her arrest raped her. The unit commander also failed to identify the inappropriateness of the watch commander's decision to have the deputy who used force on the woman conduct the interview of her about her rape allegation and that the interview was conducted through the meal slot in the door of her holding cell. Sex crime detectives, who have special expertise in this area, should have been notified and given an opportunity to interview the woman. Simply closing out the case, four months after it was alleged, with no follow-up is neglectful, and that should have been addressed by the NPD Commander.

SA COMPLIANCE

The parties, with the Monitor's concurrence, adopted the following criteria to evaluate the management review of UOF 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 UOF forms and in the Performance Recording and Monitoring System (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 that an explanation is provided for anyone who was not interviewed; failure to provide a thorough explanation 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 UOF 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 NCI/Category 1 UOF cases for SA Paragraphs 113, 115, 116, and 130. There were nine Category 1 cases in the audit sample.²⁰ Seven of those cases— P-10, L-1, L-3, L-8, L-9, L-10, and L-11—were found to contain a critical deficiency. This equates to a compliance finding of 22%.

²⁰ P-4, P-6, P-10, L-1, L-3, L-8, L-9, L-10, L-11.

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

Finding: The Department is not in compliance for Category 2 UOF cases for SA Paragraphs 113, 115, 116, and 130. There were 17 Category 2 cases in the audit sample.²¹ Of those 17 cases, 12 were found to contain a critical deficiency. Those cases are P-1, P-2, P-8, P-9, P-11, P-13, P-15, L-2, L-4, L-5, L-6, and L-7. That equates to a compliance finding of 29%.

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

Finding: As previously mentioned, the sample for this audit was chosen to highlight cases with serious use of force or investigative problems. Cases likely to have nothing more than relatively minor administrative issues that do not constitute a pattern that could lead to non-compliance were not selected for the audit, and those characteristics were not a focus of the review. Therefore, compliance is withheld for this metric.

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

Finding: Compliance assessment withheld as this was beyond the scope of this engagement.

Recommendation 2: The Department should review the findings in Objectives 1–5 and take appropriate and documented corrective actions including, but not limited to, comprehensive training for deputies, supervisors, and managers for the reporting, investigation, review, and adjudication of the use of force.

Recommendation 3: North Patrol Division should establish a comprehensive UOF tracking system and hold AV unit commanders accountable for conducting adequate and timely UOF reviews.

Recommendation 4: The Department should expedite the approval of its pending UOF policy and develop and provide updated UOF policy training (approved by DOJ and the MT) for the Department.

OBJECTIVE 6: CASES WHERE DEPUTIES DEMONSTRATED COMMENDABLE ACTIONS

The auditors identified the following cases demonstrating commendable actions and application of de-escalation tactics.

L-5. Multiple deputies responded to a radio call at a party with shots fired and a man struck by gunfire. A deputy's BWC recordings shows he located the gunshot victim in the back seat of a car. He assessed the situation, determined the victim was bleeding from his leg, applied a tourniquet, and administered

²¹ P-1, P-2, P-3, P-5, P-7, P-8, P-9, P-11, P-12, P-13, P-14, P-15, L-2, L-4, L-5, L-6, L-7.

emergency first-aid pending the arrival of LA County Fire, who arrived promptly and took over the treatment of the victim. The case had other compliance issues, but regarding the gunshot victim, the deputy's actions were professional and commendable.

L-11. Deputies responded to a priority radio call for service regarding a disturbance between a man and a woman. The caller told the deputies that his female companion hit his car with a pole and had been making suicidal statements, and he was concerned about the welfare of her children. She allowed one of the deputies to enter her apartment, which he did out of concern for her four children, one of which was an infant. The deputy's BWC recording documented the apartment was filthy, lacked food, and was essentially uninhabitable. They located the children at her downstairs neighbor's apartment; they were dressed only in underclothes. The BWC recordings document one of the deputies going to great lengths to establish a rapport with the subject and to calm her down as she became increasingly agitated. She walked toward the caller and told the deputies she was going "to make their call all worth it." The deputies feared she was going to assault him, so they held her elbows and tried to handcuff her. Throughout the incident, the deputies truly tried to de-escalate the suspect, but she nevertheless became more agitated. When they went to handcuff her, she actively resisted. They methodically took her down to the ground and, in a controlled manner, handcuffed her. They then within a reasonable time rolled her to her side and into a recovery position.

P-6. Deputies and two sergeants responded to an attempted suicide call that stated the patient was on the roof and was contemplating jumping. Upon arrival, they contacted the patient, who appeared to be under the influence of a central nervous system stimulant and was armed with a fire extinguisher. They spoke with the patient, who stated he wanted to kill himself by jumping from a fire escape. Mental Evaluation Team (MET) deputies were notified and responded to the location. Deputies created a tactical plan with a sergeant and were successful in talking the patient down from the railing. When they went to handcuff him, he momentarily resisted, and deputies methodically and calmly used firm grips and control holds in an attempt to handcuff him. They told the patient they were there to help him and were able to use very minor force to get him into handcuffs, escort him to a MET patrol vehicle, and get him in the back seat. The patient was transported to Antelope Valley Hospital where he was placed on a mental evaluation hold pursuant to 5150 WIC. The actions of the deputies and sergeant were professional and commendable. The reports and investigation were also well done.

P-7. Deputies responded to a disturbance call. Upon arrival they discovered the suspect, 5'7" and 275 pounds, in front of the house yelling and pacing. It became evident she was suffering through a mental health episode. A review of the sergeant's BWC recording shows that he interviewed one of the victims, who stated that the subject had a history of mental illness and had assaulted the victim and vandalized property. The sergeant and multiple deputies approached her. The sergeant spoke to her in a soothing tone and tried to calm her down using good de-escalation tactics. The suspect ignored the sergeant and walked away yelling. She walked to the side of a single-family house and climbed on a trash container. The sergeant again tried to de-escalate the subject and gain her cooperation. Ultimately, he directed deputies to bring her off the trash can. Six deputies did so in a slow and methodical manner. The subject continued to resist and scream, kicking her legs until a hobble restraint was applied. An ambulance was called, and she was transported for a medical evaluation and subsequently booked. The use of force and tactics were consistent with policy, and there were good efforts to de-escalate the situation.

Recommendation 5: The deputies involved in the actions described above for Audit Nos. L-5, L-11, P-6, and P-7 conducted themselves in an exemplary manner and should be commended by the Department. The cases should also be used as exemplary for supervision and training purposes.

XII. CONCLUSION

Our review found that 7 (23%) of the 26 cases, all in Palmdale, did not have serious issues either in the use of force or the way that force was investigated and adjudicated.²² However, we found that 19 (73%) of the remaining 26 cases had at least one significant issue that placed them out of policy and SA compliance.²³

A new development in this audit was the fact that body worn camera footage was available and reviewed for every case in the audit. While in previous audits, the MT found that deputy use of force in the field was typically conducted in a way that was in policy and in compliance with the SA, this audit found otherwise. The availability of BWC footage allowed for greater scrutiny of both the actions in the field and of deputy reporting of those events. In particular, we were able to more clearly understand the events and actions leading up to the use of force. This revealed, among other issues, that de-escalation tactics were often insufficiently applied, and, in fact, deputy conduct sometimes served to unnecessarily escalate situations; that written reports did not always reflect BWC footage evidence; and that the use of Tasers and OC spray were often conducted outside of Department policy.

A general takeaway from the change in findings facilitated by BWC review is that the Department should embrace the use of BWC footage in not only the review and investigation of force but in the routine training and supervision of deputies. BWC recordings should be used on a regular basis by supervisors to provide immediate and iterative feedback, instruction, and mentoring to deputies.

Our review of LASD supervisory investigation and of management evaluation of those investigations found areas of concern similar to previous audits. The current administration, in office for just short of a year, has demonstrated a heightened commitment to improving LASD supervisory and management review processes. It must be said, however, that the MT has previously provided three formal audits and large amounts of ongoing feedback on these practices in almost nine years of monitoring, and yet this audit finds many of the same issues occurring. We hope that the response to this audit is more productive than in the past; the current administration's efforts with regard to embracing the SA indicates that this will be the case.

We also stress the importance of the Department finally implementing the UOF policy approved by the MT and DOJ in June 2023. The policy is currently under review by the deputies union; the MT hopes that representatives of the union begin to approach the UOF policy with the urgency it deserves. Its approval will allow the Department to complete work in revising UOF training and hasten the associated improvements to policing in the Antelope Valley.

²² Those cases were Audit Numbers P-1, P-3, P-6, P-7, P-12, P-14.

²³ Out of compliance cases included Audit Numbers L-1, L-2, L-3, L-4, L-5, L-6, L-7, L-8, L-9, L-10, L-11; and P-1, P-2, P-8, P-9, P-10, P-11, P-13, P-15.

ADDENDUM

RESULTS OF THE THREE MT AUDITS OF NCI, CATEGORY 1, AND CATEGORY 2 USES OF FORCE

SA PARAGRAPH	SA REQUIREMENTS BY AUDIT OBJECTIVE	IN COMPLIANCE?		
		1ST AUDIT	2ND AUDIT	3RD AUDIT
The Use of Force				
102, 104, 105	The reasonable of the use of force	Yes	Yes	No
106g	Inhibiting, using force on person legally recording incident	Yes	Yes	Yes
107	Head strike with Impact weapon	Yes	Yes	Yes
Tactics, Avoiding Force, and De-Escalation				
103	Use force as a last resort and de-escalation	Yes	Yes	No
Reporting Uses of Force				
108	Deputies reporting force incidents	Yes	Yes	Partial
109	Accurate UOF reports without boilerplate language	Yes	Yes	No
110	Immediate supervisory notification of the use of force	Yes	Yes	Yes
Supervisory Use-of-Force Investigations				
111 a–d	Thorough UOF investigations	Yes	No on critical; yes on non-critical deficiency	No
111 e	Review deputies' use-of-force reports for completeness	Yes		No
112 a	Independent supervisory use-of-force investigations	Yes		Yes
112 b–e	Completeness of use-of-force investigations	Yes		No
Management Review of Use-of-Force Investigations				
113	Management review of use-of-force investigations	Yes	No	No
114	Thorough review by Executive Force Review Board	NA	NA	NA
115	Hold deputies accountable for force that violates policy	No	No	No
	Refer cases that violate the law or Prohibited Force policy to IAB or ICIB	UTD	UTD	No
116	Supervisors held accountable for inadequate investigation	UTD	No	No
130	SCR initiated for allegation of misconduct arising during investigation	No	No	No
142	Accurate data entered into PRMS	Yes	Yes	NA
Management Analysis of Use-of-Force Data				
117	AV Commanders identify and curb problematic use-of-force trends	No	Pending evaluation	NA
118	AV Commanders ensure informal supervisory feedback does not replace formal discipline and that the training and tactical review portion of a use-of-force report is captured in PRMS.	No	No	NA

SA PARAGRAPH	SA REQUIREMENTS BY AUDIT OBJECTIVE	IN COMPLIANCE?		
		1ST AUDIT	2ND AUDIT	3RD AUDIT
LASD Audits of Uses of Force				
82, 120–123	Annual analysis and public report on use-of-force data and trends	No	No	NA
Use-of-Force Training				
119	Development and delivery of use-of-force training	No	No	NA

Note: Paragraphs marked NA will be the subject of separate compliance assessments.