

**Antelope Valley Monitoring Team  
Monitor's Audit of Community Complaints**

**Audit time period: 1<sup>st</sup> Quarter 2016**

**Report date: January 10, 2018**

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**Antelope Valley Monitoring Team**  
**Audit of Community Complaints, First Quarter 2016**  
**January 10, 2018**

**Executive Summary**

**PURPOSE AND SCOPE**

The DOJ and LASD Settlement Agreement (SA) of April 28, 2015, includes numerous mandates associated with the intake, investigation, adjudication, and memorialization of community complaints. The SA also requires that the Monitoring Team (MT) conduct compliance audits for those mandates, the first of which is reported here.

Complaints must be thoroughly investigated, thoughtfully adjudicated, and retained and reviewed in a manner that allows supervisors and managers to identify patterns and intervene before issues become crises. These provisions are critical factors to instill public confidence in the Department and protect its integrity.

This executive summary provides a brief overview of the purpose, methods, and key findings of the MT's audit. This summary is not meant to describe every finding or to provide different or additional information not provided in the full report. Readers are highly encouraged to read the full report for a detailed description of audit methodology and a discussion of every audit finding and the rationale for related recommendations.

**Audit Methodology**

The audit reviewed every complaint reported on a Service Comment Review in January, February, and March of 2016. This audit specifically assessed LASD-AV's handling of public complaints and, in particular, the Department's success at meeting the requirements of the SA related to complaints. This audit does not assess LASD-AV actions that led to complaints; rather, it assesses the actions (i.e., intake, investigation, adjudication, etc.) of Department personnel after a complaint was made.

This audit assessed the following areas<sup>1</sup>:

- Intake and classification (SA ¶124–128, 130–132);
- Investigation (¶133–137);
- Adjudication (¶130, 131, 140);
- Risk management (e.g., ¶61); and,
- Recordation and retention (¶141–143).

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<sup>1</sup> This audit makes no specific finding on the paragraphs requiring the Department to revise and align its policies, rules, and procedures governing complaints (e.g., ¶129) nor does it assess complaints-related training (¶138–139). Also, none of the complaints in the audit sample contained any issue pertaining to Section 8 housing or to the drawing or exhibition of a firearm.

## **Compliance Measures**

This audit report provides the MT's preliminary assessment of compliance with the SA and recommendations for reaching compliance. (When monitoring work plans, including specific compliance measures, are finalized, subsequent audits will strictly measure the Department's compliance against those standards.) While all provisions are important, some represent relatively easy fixes while others will require more intensive consideration by the Department.

## **SUMMARY OF FINDINGS**

### **Intake**

The Department is not yet in compliance with the SA provisions requiring that personnel complaint forms and information be available at specified locations and on their website, that the Department accept all complaints, and that refusing to accept a complaint or discouraging a complaint is grounds for discipline. The audit found that the two AV stations had complaint information and forms available in their lobbies, but not in an easily viewable manner, and that none of the other required locations (i.e., courthouses and libraries) had forms available. None of the methods identified on the Department's website, such as filing a complaint online or via telephone, were functional when the audit was performed. There were nine cases in the audit sample in which a complainant alleged a deputy discouraged or inhibited the making of a complaint, with just three of these addressed appropriately during the complaint investigation.

The audit found that supervisors occasionally meet with a community member who is displeased with some aspect of police service. While it may be appropriate for the supervisor to resolve some of those issues in the field, the Department needs to establish a process to record its handling of community concerns and allegations that do not result in the initiation of a Service Comment Review.

### **Investigation**

The Department is not in compliance with SA's provisions for the investigation of public complaints. Generally, most investigations reviewed for this audit were quite good and were conducted in a timely manner. However, the SA requires that complaint investigations be as thorough as necessary to reach reliable and complete findings. Eleven of the 52 cases in this audit (21%) fell short of that standard. The shortcomings predominately involved the failure to clearly identify all allegations and gather evidence to prove or disprove each one. There were also several cases in which key witnesses were not interviewed, with no explanation given. Documentation was usually lacking to show that deputies were interviewed separately or why complainants were interviewed on the telephone instead of in person as required. Additionally, the Department needs to reconsider its practice of having Lieutenant Watch Commanders investigate minor allegations of misconduct such as discourtesy while lower-ranked field sergeants investigate higher-risk allegations of excessive or unnecessary use of force. Lastly, there were four cases in which a person was detained in the back seat of a patrol car; none of these reports identified or addressed what the auditors found to be inadequate documentation of the reason for the backseat detentions.

According to current LASD policy, when a complaint or allegation of deputy misconduct is identified during a use-of-force (UOF) investigation, it is addressed within the UOF investigation but it is not recorded in the Department's automated systems as a complaint. This makes it difficult if not impossible to know how many complaints are made, including serious complaints such as discrimination or excessive or unnecessary force.

### **Adjudication**

The Department is not yet in compliance with the SA requirements for the adjudication of public complaints. In 23% of the cases, allegations of misconduct were not identified during the investigation or management review. In 29% of the cases, critical information was missing from the investigation and/or the adjudication was not based on the preponderance of evidence. The auditors found that deputy statements were automatically given preference over those of complainants in 27% of the cases reviewed. On the other hand, there were no cases reviewed where the complainant's statement, or that of a witness, was discredited due to their criminal history. Also, management review of investigation reports and notification to complainants of the disposition of their complaint were both done in a timely manner.

### **Risk Management Review**

The Department is not yet in compliance with the SA's requirement for effective management oversight regarding the identification and resolution of critical risk management issues that are brought to light during the investigation of public complaints. The documentation we received for each case—the same documentation a judge or anyone else would receive if they requested the official record for these complaints—did not contain any record that risk management issues were identified or reviewed, or that corrective action was initiated. The auditors identified several cases where such a review should have been conducted, including three involving discrimination allegations, one involving a racial profiling allegation, three involving questionable methods used by male deputies searching female detainees for narcotics, three that indicate a lack of clarity regarding the Department's policy for reporting use of force, and one with a tactical issue that could have potentially resulted in a deputy-involved shooting.

### **LASD Audit of Complaints**

LASD is not yet in compliance with SA requirements that the Department conduct its own complaint audits and will therefore remain out of compliance until it submits the specifically required audits, along with the associated audit work papers for Monitor's review.

### **Recordation and Retention of Complaints**

The Department is not yet in compliance with the SA requirements for capturing and entering accurate data into PRMS. The results of complaint investigations as recorded on the Result of Service Comment Review forms were accurate for simple cases, such as one allegation against one deputy with one disposition. But the form was consistently inaccurate when multiple deputies and multiple allegations and multiple dispositions were involved. There were also excessive delays, up to seven months, for entering data on completed cases by the Discovery Unit. On the other hand, the Discovery Unit's data entry into PRMS was found to be very accurate.

The audit revealed several issues with the Department's methods for retention of complaints and reporting personnel investigations to the State Department of Justice. These related to the schedule for destruction of records and inconsistencies in the disposition classifications the Department uses versus those required by the California Penal Code

**Antelope Valley Monitoring Team**  
**Audit of Community Complaints, First Quarter 2016**  
**January 10, 2018**

**FULL REPORT**

**I. DEPARTMENT OF JUSTICE—CIVIL RIGHTS DIVISION INVESTIGATION**

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

In a 46-page letter time stamped June 28, 2013, the Civil Rights Division issued its findings. With respect to community complaints, the Findings Letter concluded that the Department had a comprehensive protocol for responding to, classifying, and reviewing civilian complaints. However, the processing of complaints made by the AV Community did not comport with those standards. Specifically, DOJ found that:

1. In the one-year period, DOJ reviewed all but one of the public complaints of misconduct were resolved as a Service Comment Review rather than as an Administrative Investigation from which discipline could be imposed. The one case that was elevated to a formal Administrative Investigation resulted in criminal charges being filed against the accused deputy.
2. Between 2010 and 2011 civilians filed at least 25 complaints regarding deputies' discriminatory conduct, including at least two complaints alleging that deputies used racially derogatory language, one of which was captured in a video.
3. AV stations do not properly consider and resolve community complaints of deputy misconduct.
4. LASD's early warning system does not adequately identify and/or address deputies with repeated complaints.
  - A complaint that a deputy tried to initiate a personal relationship with a domestic violence victim was handled as a service complaint even though the deputy had a similar complaint during the one-year period selected for DOJ's investigation.
  - A deputy was the subject of seven complaints in an eight-month period but was not identified as a candidate for performance mentoring.
  - Several complaints contained additional allegations of misconduct that were not identified or investigated. The unrecorded allegations included excessive force, discrimination, and harassment.
5. Of the 180 community complaints of deputy conduct that were made during the one-year study period:
  - Only one of those complaints was elevated to an Administrative Investigation, and that case resulted in criminal charges being filed against the accused deputy.
  - The remaining 179 complaints were handled as Service Comment Reviews, which precluded any imposition of discipline for the accused deputies.



- Twenty-five of those 179 complaints alleged racial discrimination, all of which should have resulted in an Administrative Investigation and been referred to the Internal Affairs Bureau (IAB) at least for tracking and assignment.<sup>2</sup>
  - Nine of those 179 complaints related to the use of force, all of which should have resulted in an Administrative Investigation and been referred to IAB at least for tracking and assignment.<sup>3</sup>
6. Complaints of discriminatory policing are not adequately investigated or recorded.
- None of the community complaints of discriminatory conduct were handled as an Administrative Investigation, in violation of Department policy.<sup>4</sup>
  - Eighteen of Lancaster’s 114 community complaints involved an allegation of racial discrimination, profiling, or bias either in the initial complaint or during the investigation. However, 10 of those allegations were not identified or adjudicated in the Watch Commander Service Comment Report (WCSCR).
  - Seven of Palmdale’s 66 complaints involved an allegation of racial discrimination, profiling, or bias either in the initial complaint or during the investigation. However, six of those allegations were not identified as discrimination in the WCSCR, but marked instead as complaints of harassment, discourtesy, or improper tactics.
7. The deputy’s version of events “is always credited over the civilian’s account.”
8. IAB has a small role in reviewing or providing centralized oversight of the public complaints received by the Antelope Valley stations.<sup>5</sup>

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<sup>2</sup> The Department does not agree with this conclusion.

<sup>3</sup> The Monitoring Team’s (MT’s) review of the complaint process disclosed that nearly every allegation of misconduct, including allegations of unnecessary or excessive force, made in conjunction with a use-of-force investigation is folded into the force investigation and never captured as a complaint at all.

<sup>4</sup> The Department does not agree with this conclusion.

<sup>5</sup> The MT’s review of the complaint process disclosed that IAB has no role in the oversight or review of public complaints unless the complaint is elevated to a formal Administrative Investigation.

9. The way in which community complaints are handled in the AV reinforces deputy misconduct, including bias. When complaints are rarely elevated to Administrative Investigations, deputies know the worst practical consequence for improperly treating a person is a disposition of "should have been different" with non-disciplinary action.
10. Even when a specific deputy is the subject of a complaint, several PPI entries identified the involved employee as "all patrol," "all station" or some other nonspecific category.

## **II. SETTLEMENT AGREEMENT**

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

### **A. Complaint Definitions from the SA**

Personnel Complaint is an external allegation of misconduct against an LASD deputy or employee that could be a violation of law or LASD policy (§126).

Service Complaint is an external complaint about an LASD service, procedure, or practice that does not involve misconduct by an LASD deputy or employee (§126).

Administrative Investigation is an investigation conducted by IAB or at the AV Unit level that can result in formal discipline (§16). (The AV Units are Palmdale Station and Lancaster

Station. The term “unit” may also refer to one or more employees within each station, such as the unit assigned to a certain patrol vehicle or a certain function.)

Service Comment Review is the review of an external complaint about an LASD deputy or employee's behavior (¶33). (This report uses the term Watch Commander Service Comment Review or WCSCR.)

Performance Log Entry (PLE) is the hard copy documentation of a supervisory notation about a deputy's performance, including commendations, weaknesses, career guidance, and training (¶27).

Performance Mentoring Program refers both to LASD's department-wide mentoring program as well as the North Patrol Division's mentoring program. These performance mentoring programs identify and assist deputies in need of specialized or additional training, supervision, or mentoring (¶28).

Performance Reporting and Monitoring System (PRMS) is LASD's early intervention database (formerly referred to as Personnel Performance Index or PPI). It provides a systematic recording of data relevant to incidents such as uses of force, shootings, commendations, and complaints regarding LASD personnel. It also tracks the progress of Administrative Investigations, civil claims and lawsuits, and *Pitchess* motions (¶30).

## **B. Complaint Paragraphs from the SA**

SA paragraphs 124 through 140 address each stage of the complaint process. The full text of those paragraphs is provided under the relevant objective in the Findings chapter of this report.

### **III. LASD COMPLAINT PROCESS**

To understand the methodology used for this audit and the audit's ultimate findings, it is important to know how Antelope Valley stations are staffed, supervised, and managed. Having supervisors available to respond when a conflict occurs, a Lieutenant Watch Commander on duty to intake and investigate complaints, and Captains to oversee and adjudicate investigations are all critical components of an effective disciplinary system. It is also important to understand the process that is used to receive, investigate, and adjudicate community complaints. For the Los Angeles County Sheriff's Department, that is an extremely complex system governed by several manuals and guides.

#### **A. Antelope Valley Station Staffing**

The Palmdale Station has about 175 sworn and 47 professional staff assigned. The Lancaster Station has about 193 sworn and 63 professional staff assigned. Both stations have a jail that houses pre-arraigned prisoners. The jails are under the line command of the Unit (Station) Commanders, and prisoner complaints are handled the same way as community complaints.

Patrol deputies and their supervisors work a 5/8 schedule and are assigned to the Day, PM, or Early Morning shifts. Both stations try to deploy two field supervisors on each shift, but occasionally there is only one. Except for Field Training Officers who are assigned a trainee, most units deployed in the cities of Palmdale and Lancaster are one-deputy units. Units deployed in the unincorporated areas outside the cities of Lancaster and Palmdale are usually one-deputy units during the Day shift, but two-deputy units during PM and Early Morning shifts.

There are seven Lieutenants assigned to each AV station:

- Four Watch Commanders (one for each shift and one for relief);
- One Detective Lieutenant;
- One Directed Patrol Lieutenant (Lancaster) or Partners Against Crime (Palmdale); and,
- One Operations Lieutenant (second in command of the station).

There is a Watch Commander and Watch Sergeant designated on every shift. The Watch Commander is usually a lieutenant, but sometimes a sergeant works as the shift Watch Commander. The Watch Commander is in charge of patrol operations and the jail during the shift. The Watch Sergeant approves reports and oversees the front desk and station jail. Occasionally a senior deputy is assigned as the Watch Sergeant, but only when a sergeant or lieutenant is the Watch Commander. The desk is staffed with a mix of sworn and non-sworn personnel. All desk telephone lines are recorded. Both the Watch Commander and Watch Sergeant conduct jail checks, and they conduct two random audits of incoming calls per shift.

Deputies are expected to have a supervisor respond to the scene of any field incident that may generate a complaint or use of force. Likewise, station personnel are required to refer any complaint to a supervisor. In both stations, a pamphlet describing the complaint process and a complaint form are supposed to be available in the lobby, and patrol units are required to have them in their cars. The material is available in both English and Spanish, which are the predominant languages spoken in both communities.

1. Complaint Process

The Department's process for handling public complaints is documented in numerous manuals, guides, and handbooks. Chief among these are the Manual of Policies and Procedures, the Administrative Investigations Handbook, and the Service Comment Report Handbook. There are also myriad other forms, computer screens, and an array of training materials that have been developed for various courses. As is common in many large organizations, changes or updates to one document are not always incorporated into every other document, resulting in inconsistencies among various publications. For example, the Administrative Investigations Handbook contains a requirement that employees notify the Watch Commander immediately upon becoming aware of a complaint and that the Watch Commander investigate and report on the complaint. But most line-level employees would look for that guidance in the Manual of Policies and Procedures rather than a guide for handling Administrative Investigations. This is one of the reasons the SA specifically tasks the Department with "revising its complaint investigation policies . . . to ensure they are complete, clear and consistent" (¶127).

Members of the Monitoring Team (MT) held a series of meetings with the Antelope Valley Commanders and their key staff to identify the fundamental components that govern the ways in which public complaints are handled by the Department in general and by the Antelope Valley commands in particular. They agreed that the following information describes their process for handling public complaints:

1. *Decentralized approach.* Most complaints are investigated and adjudicated at the Unit level and reviewed at the Division Commander level. The Department's Internal Criminal Investigations Bureau (ICIB) and IAB handle only the most serious and/or complex investigations, including any complaint against a sergeant or above that results in an Administrative Investigation. Consequently, IAB only has about 30 investigative sergeants assigned.
2. *Command of occurrence.* Most complaints are investigated by the Lieutenant Watch Commander of the Unit in which the complaint occurred. If a deputy working an overtime assignment in another command is accused of misconduct, the Unit Watch Commander where the allegation occurred conducts the investigation. The investigation is then reviewed by the captain of the Unit of occurrence, then the Division Commander. The exception is a complaint involving entities with broad responsibilities, such as the Parks Bureau and County Services Bureau. When a complaint involves a bureau such as that, a Unit Watch Commander may conduct the intake investigation, but the complaint is usually forwarded to the accused deputy's command for investigation and adjudication.
3. *Allegations Arising in a Use-of-Force Investigation.* If a complaint of any type is made during a use-of-force investigation, it is addressed in the Use-of-Force Report.<sup>6</sup> For example, a supervisor conducting a use-of-force investigation that involves an allegation of excessive or unnecessary force addresses the allegation(s) in the use-of-force investigative report. A WCSCR report is not completed, so the allegation is never recorded in the Department's automated systems. Only a use-of-force allegation that has **not** been investigated any other way is reported on a WCSCR report. Thus, the number of force-related allegations reported in WCSCR report statistical summaries (monthly; yearly) only reflect allegations addressed via the WCSCR report process. This issue is discussed in more detail in Chapter IX, Use-of-Force Complaints.

**Note:** Since being made aware of this, the Department has mentioned several times that commands have been instructed to complete a WCSCR report face sheet whenever a use-of-force investigation contains an allegation of misconduct. However, the Department has not been able to produce a document codifying that direction, identifying the person issuing the directive, the commands affected, or the date issued. Even if there has been such direction, this audit showed that it is not being followed; we found no evidence of a WCSCR report face sheet being completed for a use-of-force complaint investigated in conjunction with a use-of-force investigation.

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<sup>6</sup> MPP 3-10/100.00 Use of Force Reporting Procedures.

**Recommendation 1: To comply with the SA, the Department needs to revise its policy for handling complaints of misconduct that arise during a use-of-force investigation so that each complaint is investigated, adjudicated, and recorded in PRMS.**

All reported uses of force, even those containing an allegation of excessive or unnecessary force, are investigated by a field sergeant and reported on a form 438 (SH-R-438). Other public complaints are almost exclusively investigated by a Lieutenant Watch Commander. This puts lieutenants in the position of investigating low-risk complaints such as discourtesy or neglect of duty while sergeants investigate higher-risk complaints of excessive or unnecessary force that, if true, could constitute a crime. We were unable to ascertain the rationale behind this apparent mismatch between rank and responsibilities.

**Recommendation 2: The Department needs to reconsider its practice of having Lieutenant Watch Commanders investigate minor allegations of misconduct, such as discourtesy, while field sergeants investigate higher-risk allegations of excessive or unnecessary use of force.**

Depending on the complexity of the incident, for each use of force there is a three- to five-page cover sheet that captures a variety of data. However, that data does not include if a complaint was involved. In 2015, Palmdale reported 126 uses of force, and the Palmdale Unit Commander estimated that about five to seven of those investigations contain an allegation of excessive or unnecessary force. In 2015, Lancaster reported 141 uses of force, and the Lancaster Unit Commander estimated that about six to nine of those investigations contain an allegation of excessive or unnecessary force.

4. *Administrative Investigation.* Administrative Investigations include criminal and non-criminal allegations investigated by ICIB or IAB, or at the Unit level. An Administrative Investigation can result in formal discipline. Most complaints generated by the Department internally, such as missing court and failure to qualify, are handled as Administrative Investigations. In contrast, very few public complaints result in an Administrative Investigation.

If the Unit Commander determines there is sufficient information to warrant an Administrative Investigation, he will discuss the complaint with the Division Chief or Commander. Unless a decision is made to request IAB to handle, the complaint is assigned to a Unit Lieutenant and handled at the Unit level. IAB is notified that an Administrative Investigation is being opened regardless of which command handles the investigation. The Lieutenant conducts the investigation and submits the completed investigation to the Unit Commander through the Operations Lieutenant.



The Department uses four classifications for the disposition of Administrative Investigations:

- **Exonerated.** Clear and convincing evidence that shows (1) the employee was not involved in the incident; (2) the allegation was false and made in bad faith or from mental illness; or (3) the allegation does not constitute misconduct.
- **Unfounded.** Preponderance of evidence establishes the alleged misconduct is not true.
- **Founded.** Preponderance of evidence establishes the alleged misconduct is true.
- **Unresolved.** Preponderance of evidence neither supports nor refutes the allegation.

When an Administrative Investigation is classified as Founded, the Unit Commander serves the employee with a Letter of Intent and provides him with a CD containing the entire investigation. (This satisfies the California Public Safety Officers Procedural Bill of Rights' statute of limitations for completing personnel investigations.) The Unit Commander can impose a suspension of up to fifteen days, and a penalty over fifteen days is referred to LASD's Case Review Committee. The employee can appeal to the Division Chief, which constitutes the employee's *Skelly Hearing*. An employee who is still dissatisfied can appeal to the Civil Service Commission if the discipline is over five days. If it is under five days the employee can appeal to the Employee Relations Commission. There can be some negotiations regarding penalty, but the Constitutional Policing Advisors must be consulted before anything is changed on a case they are monitoring.

Completed Administrative Investigations are forwarded to and retained by IAB. They are also scanned in their entirety and retained in PRMS.

5. *Watch Commander Service Comment Report.* A WCSCR is used to document all community complaints. Those complaints fall into two categories:

- **Personnel Complaints.** These involve non-criminal allegations of a lesser nature than those addressed in an Administrative Investigation and are almost always investigated at the Unit level.
- **Service Complaints.** These involve non-criminal service-related complaints usually involving dissatisfaction with service or procedure only. Very few complaints fall into this category.

Unless it is elevated to an Administrative Investigation, a WCSCR investigation can only result in non-disciplinary corrective action.

The on-duty Watch Commander (WC) usually conducts the initial investigation of any community complaint. He reports his investigation on a WCSCR and enters the preliminary information into the Preliminary Data Entry (PDE) system. That initial entry populates PRMS and generates a sequential Preliminary Data Entry (PDE) number. The PDE entry is then used to track the investigation. The WC forwards the preliminary investigation to the Unit Commander through the Operations Lieutenant. The Unit Commander reviews the complaint and decides if it will be handled at the Unit level. A letter is sent to the complainant acknowledging receipt of the complaint. The investigation is assigned to a Lieutenant WC who conducts an investigation and submits a report to the Unit Commander through the Administrative Lieutenant. Once the Unit and Division Commanders have approved an investigation, it is forwarded to the Discovery Unit, where it is scanned into PRMS. (Discovery is part of the Risk Management Bureau, which, along with IAB and ICIB, is a separate command under the Professional Standards Division.)

The Department uses five classifications for the disposition of Service Comment Reports involving a Personnel Complaint, which they define as follows:

- **Conduct Appears Reasonable.** The employee's actions appear to be in compliance with policies, procedures, guidelines, or training.
- **Conduct Could Have Been Better.** The employee's actions were in compliance with policies, procedures, guidelines, and training, but the complaint could have been minimized if tactical communication principles or common sense had been used.

This disposition generally results in corrective action that may include verbal or documented counseling (Unit Performance Log Entry). If the behavior is more serious or repetitive, the review should be halted and an Administrative Investigation initiated.

- **Conduct Should Have Been Different.** The employee's actions were not in compliance with policies, procedures, guidelines, or training.

This disposition is most appropriate when the employee's conduct was not consistent with Department standards, but not at a level warranting formal discipline. This disposition generally results in documented counseling (Unit Performance Log entry) or an appropriate level of corrective action. If the behavior is more serious or repetitive, the review should be halted and an Administrative Investigation initiated.

- **Unable to Make a Determination.** There was insufficient information to assess the employee’s alleged conduct or to identify the employee(s) involved.
- **Resolved Through Conflict Resolution.** A conflict resolution meeting with the reporting party and involved employee(s) was held. The meeting adequately addressed all concerns, and no further action was deemed necessary.

The dispositions “Could Have Been Better” and “Should Have Been Different” are considered sustained allegations. On occasion a WCSCR report is closed using an Administrative Investigation disposition. That generally occurs in order to close the WCSCR to open an Administrative Investigation.

These classifications are inconsistent with the definitions used in the Penal Code, which requires law enforcement agencies to report Personnel Complaints to the California Department of Justice (CA DOJ).<sup>7</sup> According to the Chief of LASD’s Professional Standards Division (PSD) only one (L-20)<sup>8</sup> of the 52 Personnel Complaints selected for this audit was reported to CA DOJ pursuant to state guidelines for law enforcement agencies to report citizen complaints. This is discussed further under the Records Retention portion of the Audit Findings.

**Recommendation 3: The Department should revise its Personnel Complaint classifications to comport with California law.**

6. *Discrimination Complaints.* The Palmdale and Lancaster stations are under the line command of North Patrol Division. On August 19, 2013, North Patrol Division issued a Division Order establishing a Unit Commander’s responsibility for Discrimination Complaints. Essentially, that directive requires that the Unit Commander be notified of any Discrimination Complaint without delay. Then the Unit Commander is required to:

- Meet with the complainant to identify the nature of the complaint.
- Contact the involved personnel and offer participation in the Conflict Resolution meeting. Those who agree to participate will receive a performance log entry documenting their participation and commitment to the Department’s Core Values. If they do not agree to participate, the offer will be documented in the Service Comment Review.

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<sup>7</sup> Penal Code Section 13012

<sup>8</sup> Each investigation in the audit sample was assigned an audit number consisting of “P” for Palmdale and “L” for Lancaster followed by a sequential number. Cases are referred to only by their audit number throughout this report.

- If both parties agree to participate, facilitate a Conflict Resolution session between the complainant and involved personnel.
- Notify the complainant in writing that the complaint was received and that the Department “takes discrimination complaints seriously” and that the Unit Commander will be “personally involved” in the complaint review.

As all the cases selected for this audit occurred well after this directive was issued, auditors tested for compliance with this directive.

7. *Performance Log Entry.* When a supervisor sees the need to document an employee’s performance that does not amount to misconduct the supervisor completes a Unit Performance Log entry and has the employee sign it. If the employee refuses to sign, the supervisor has another supervisor witness the refusal, and they both sign the entry. In Palmdale, Unit Performance Log entry reports are kept in a three-ring binder referred to as the “Black Book.” The Black Book is kept in a locked cabinet, and the Watch Commander has the only key. In Lancaster, Unit Performance Reports are kept in a designated electronic folder that is password protected.

#### **IV. PURPOSE OF AUDIT**

The DOJ Findings Letter noted that the Department “*began taking immediate steps to proactively fix the deficiencies identified in the investigation.*” The purpose of this audit is to assess the degree to which the Department has revised its handling of public complaints since DOJ’s investigation and, therefore complies with the provisions of the SA. Specifically, paragraph 153 of the Agreement requires:

*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: . . .*

*g. Accountability Measurements, including:*

- 1. the number of personnel complaints (by type of complaint), with a qualitative assessment of whether any notable increase or decrease appears related to access to the complaint process;*
- 2. rate of administrative investigations resolved as founded, unfounded, unresolved, inactivated or administrative investigations;*
- 3. rate of SCRs resolved in all resolution categories;*
- 4. the number of deputies who are subjects of repeated personnel complaints or have repeated instances of sustained personnel complaints;*
- 5. the number, nature, and settlement amount of all known civil suits against LASD-AV deputies; and,*
- 6. the number of use of force and discriminatory policing complaints that are handled by the stations or referred to IAB.*

**V. SCOPE OF AUDIT**

In its Findings Letter and in the subsequent SA, the DOJ recognized the Department has taken many proactive steps to correct the deficiencies DOJ identified in its investigation. Both parties to the SA agreed that the goal of those changes is to have a disciplinary system where “allegations of personnel misconduct are received and are fully and fairly investigated and that all personnel who commit misconduct are held accountable to a disciplinary system that is fair and consistent.”<sup>9</sup> The scope of this audit was designed to assess the extent to which that goal has been achieved.

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<sup>9</sup> Preamble to the Personnel Complaint Review section of the Settlement Agreement.

The MT audited a sample of contemporary complaints from the AV community and compared the audit findings to provisions of the SA. Specifically, the audit assessed if complaint information was readily available to the public and if each complaint and its allegation(s) were:

- Classified properly at intake, in the investigation and during adjudication (¶1127–130);
- Referred to IAB or ICIB when appropriate (¶132);
- Investigated thoroughly by an uninvolved supervisor (¶133–137);
- Adjudicated using the preponderance of evidence standard (¶130, 131 140); and,
- Recorded correctly on the complaint forms and in PRMS (¶141–143).

We also assessed the degree to which the Department is complying with the audit requirements of the SA. As this is the MT’s first audit of the complaint process, auditors also examined the policy and practice that is used for the retention and destruction of community complaints—WCSCRs and Administrative Investigations—involving AV personnel.

## **VI. AUDIT POPULATION**

### **A. Sample Selection**

An audit of this nature needs to ensure it only evaluates completed cases. Identifying errors in cases before management has an opportunity to review them precludes auditors from assessing the effectiveness of the management review process. The population used to demonstrate how complaints are being handled should be as contemporaneous as possible but old enough so the vast majority of complaints have been completed and entered into PRMS.

Auditors worked with the Department’s Compliance Unit staff to identify and validate a contemporaneous audit population. The following chart shows the number of complaints initiated from the AV community during the first two quarters of 2015 and 2016:

| <b>WCSCRs Initiated From the AV Community</b> |                  |                 |              |
|---|------------------|-----------------|--------------|
| <b>Quarter</b>                                | <b>Lancaster</b> | <b>Palmdale</b> | <b>Total</b> |
| 1st Quarter 2015                              | 24               | 29              | <b>53</b>    |
| 2nd Quarter 2015                              | 25               | 34              | <b>59</b>    |
| Jan thru June 2015                            | 49               | 63              | <b>112</b>   |
| 1st Quarter 2016                              | 24               | 27              | <b>49</b>    |
| 2nd Quarter 2016                              | 17               | 23              | <b>35</b>    |
| Jan thru June 2016                            | 41               | 50              | <b>84</b>    |

Initially auditors considered auditing the first six months of 2016. However, the number of complaints for the 2nd quarter of 2016 was substantially lower than the other three quarters, raising concern regarding the validity of the data. Several efforts were made to identify causal factors for the drop-in complaints, but no reliable explanation was found. Simultaneously, the Department’s Audit and Accountability Bureau released a Public Comments Audit that was, in fact, an audit of completed Service and Personnel Complaints made against AV personnel during the first quarter of 2015. That audit showed that Lancaster had 28 complaints in that quarter and Palmdale had 30. Those numbers did not match the ones provided to the auditors, thus raising additional concern regarding the validity of the audit sample. Consequently, it was decided to limit this audit to complaints that were initiated by the AV community during the first three months of 2016 (January through March) as its Contemporaneous Population.

During our review of Watch Commander logs for the audit period, a complaint in Palmdale was identified that was not included in the original 27. That complaint was added to

the audit sample (P-28). An additional complaint was identified as originating from the AV against deputies from a non-AV command (O-1). The complaint alleged that investigators were not pursuing leads in a criminal investigation. Auditors reviewed the complaint, which was investigated and adjudicated by the non-AV command. The investigation was very thorough and adjudication appropriate. As it contained no SA issues, it was not included in the audit findings.

1. Validation of Audit Sample

The first step in any audit is to validate the audit population. This was especially critical in this audit given the difficulty we had obtaining reliable data on complaints and allegations. Some of the problems arose from AV Unit personnel using a variety of sources to provide the data. There were also some miscounts in PRMS such as allegations being counted as Lancaster station WCSCRs when they actually occurred in Palmdale.

The first validation step was to review Watch Commander logs for the Lancaster and Palmdale stations from January 1 through March 31, 2016 (audit period). While WCs are not required to log complaints, many do in order to inform their commanding officer of new complaints. Another validation step was to review civil claims and lawsuits filed for incidents occurring in the AV during the audit period to determine if any contained unaddressed allegations of misconduct.



## **B. Watch Commander Logs**

Auditors identified nine log entries that appeared to contain information on a community complaint. (Those entries were numbered WC 1 through WC 9 for identification.)

Auditors requested and received additional documentation to determine if each log entry fell within the audit's scope. Seven of the log entries did not have an impact on the identified audit population:

- Four log entries reported on incidents already identified in the audit population (WC 1/L-12; WC 5/L-16; WC 6/P-17; and, WC 7/P-24).
- One log entry (WC 8) reported a Lancaster resident's complaint about a non-AV deputy speeding in North Hollywood (beyond audit scope).
- One log entry (WC 9) did not rise to the level of a complaint.
- One log entry (WC 4) involved a Repetitious Complainant. Auditors examined that case and found ample documentation for that designation, including written approval from the Division Chief.

Two log entries did have an impact on the audit population:

- WC 2 logged an anonymous complaint received by the WC alleging that several off-duty deputies at a bar were throwing bottles at the complainant and challenging him to fight. That complaint resulted in a WCSCR, but it did not appear on the complaint printout provided for this audit. It was added to the audit population (P-28).

**Recommendation 4: The Department needs to determine why this complaint (P-28) did not appear in the list of AV complaints obtained from PRMS.**

- WC 3 involves a domestic incident between a deputy and his girlfriend. The log entry reads that the deputy called the station at 0150 to report he and his girlfriend became involved in an argument, and she threatened to call the police and say he (the deputy) "put his hands on her." The deputy had left the scene and called 911. Deputies and a sergeant responded and determined that "it was definitely a non-criminal D/V incident . . . both parties HBD [had been drinking]. The girlfriend did not claim deputy [name] committed any crime nor was there any evidence of such." The woman's statement to that effect was not recorded. The entry concluded with "No crime investigation, no further notifications per policy."

Auditors requested the Incident History report, which shows a woman activated her medical alarm at 0129. This allowed the alarm company to monitor the residence via the in-home 2-way communication's system. The alarm dispatcher reported hearing a man and woman arguing and the woman saying the man put his hands on her. There is no documentation the alarm company employee was interviewed and there is no documentation a supervisor listened to the 2-way recording or, preferably, obtained a copy.

The SA requires investigations to be as thorough as necessary to reach reliable and complete findings (¶1131). That does not appear to have occurred in this case.

**Recommendation 5: The Department should review this case (WC Log 3) and provide additional training to supervisors on the need to identify, collect, and consider all evidence related to a Personnel Complaint.**

### **C. Civil Claims and Law Suits.**

Another method used to validate the audit population was an examination of civil claims and lawsuits filed for incidents occurring in the AV during the audit period. There were five claims and one lawsuit filed during that period. (They were numbered Claim 1 through 5 and Lawsuit 1 for identification in this audit.) None of the civil claims or the lawsuit identified through this process had an impact on the audit population.

- The lawsuit and one claim involved traffic collisions (Lawsuit 1 and Claim 3).
- Two claims involved property damaged during police operations (Claims 4 and 5).
- One involved damage from a county gate closing on a car (Claim 2).
- One involved an incident already captured in the audit population (Claim 1/P-26).

1. Complaints Involving Section 8 Housing

The SA addresses AV deputies' interaction with Section 8 housing recipients, so auditors were particularly mindful of complaints involving those issues (¶73 through ¶80). None of the complaints during the audit period contained any issue even remotely connected to Section 8 housing. Auditors tried several ways to validate that finding to determine if Section 8 complaints were being handled some other way, including contacting Housing and Community Development representatives. We were still unable to locate any Section 8 housing related complaints involving LASD personnel.

**Significant Finding 1: None of the complaints in the audit sample contained any issue even remotely connected to Section 8 housing (¶73 through ¶80).**

2. Complaints Involving Drawing or Exhibiting a Firearm.

The SA requires that the Monitor, in conjunction with LASD, conduct an ongoing audit of incidents where deputies draw or point their firearms (¶152). The audit is required to include a review of all civilian complaints involving any use or display of a firearm. None of the complaints in this audit sample involved any allegation related to the drawing or exhibition of a firearm.

**Significant Finding 2: None of the complaints in the audit sample contained any allegation pertaining to the drawing or exhibition of a firearm (¶152).**

## **VII. AUDIT METHODOLOGY**

After reviewing a small sample of WCSCRs so the audit staff could orient itself to the report's structure and organization, auditors developed an audit work paper template and matrix to gather pertinent data on each complaint. Each complaint in the audit populations was analyzed by an auditor, and then another auditor conducted a second level of review. In accordance with SA paragraph 153, the audit analysis was both qualitative and quantitative. In other words, an error was counted (quantitative) and the error's impact on the reliability of the investigation, adjudication, and/or recordation was also evaluated (qualitative). Any error or omission that was identified and addressed in the review process was not counted as a deficiency provided the error or omission did not keep recurring.

On November 16, 2017, LASD's Compliance Officer and the DOJ were provided with a draft of the audit report. Both parties were asked to review the draft and identify any factual errors. On November 28, 2017, the DOJ notified the MT that they found no factual errors in the report. On December 7, 2017, the Department provided the MT with a list of about 10 very minor errors, such as job titles and organization names. Those errors were corrected in the final report; none of them were substantive.

## **VIII. COMPLIANCE MEASURES**

The Department, DOJ, and Monitors are in the process of finalizing Work Plans for each paragraph in the SA. Each Plan identifies the Targeted Outcomes, Monitoring Activity, and Compliance Measures for each paragraph. Depending on a paragraph's subject, its Compliance Measure may involve, for instance, publishing a policy or directive, ensuring that a certain

percentage of staff attend specified training, or making sure the error rates in reports are kept below a certain percentage. When those quantitative measures of compliance are established for each provision, subsequent audits will measure the Department's level of compliance against those standards.

Meanwhile, the MT needs to audit areas such as complaints and use of force in order to inform the change process. This audit reports the MT's **preliminary** assessment of compliance pending the finalization of the work plans. The categories for audit findings are:

1. **In compliance** when the audit findings support a conclusion that the Department is complying with a SA provision to the extent that it exceeds any reasonable qualitative and quantitative standard that may be established in the final work plans.
2. **Out of compliance** when the audit findings support a conclusion that the Department is not complying with a SA provision to an extent that would exceed any reasonable qualitative and quantitative standard that may be established in the final work plans.
3. **Unable to Determine** when the audit finding was unable to determine compliance or non-compliance.

This report provides the rationale for the determination of in or out of compliance at the conclusion of each audit objective.

## **IX. USE-OF-FORCE COMPLAINTS**

The MT's review of the Department's complaint process disclosed that community complaints made in conjunction with a use-of-force investigation are not captured in the Department's automated systems. This includes allegations of excessive or unnecessary force. The AV Unit Commanders estimate that about five use-of-force investigations each quarter

contain a community complaint. In the absence of a uniform method for capturing such complaints, the only way to locate them is to hand-search each UOF investigation and cull out those with an excessive or unnecessary UOF allegation. As there is no disagreement among the parties that at least some UOF investigations contain community complaints that were not recorded in an employee's work history or in PRMS, it is not cost effective or necessary to audit those reports just to validate what everyone already knows.<sup>10</sup>

**Significant Finding 3: The Department's current policy for handling allegations of misconduct that arise from a use of force is not in compliance with SA paragraphs 127, 130, and 142, which require that each allegation be accurately identified and classified from intake through resolution, that Unit Commanders adjudicate each allegation, and that each allegation is entered accurately into PRMS.**

## **X. HIGH-RISK COMPLAINTS**

While every community complaint is important, there are categories of complaints and adjudications that pose a greater potential for revealing significant misconduct than others. For example, a complaint of excessive force may reveal criminality, while a complaint of rudeness is less likely to do so. If a high-risk complaint is misclassified it would not receive the investigative focus and management oversight required to identify and address employee misconduct (§127). Therefore, auditors closely evaluated allegations and management's adjudications in the following areas.

1. **Force WCSCRs.** These will be reviewed for reporting consistency with those submitted via the UOF reporting process.

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<sup>10</sup> As stated earlier, we understand corrective action is already underway; however, we have not seen any documentation to that effect.

2. **Discourtesy.** These will be reviewed to identify any complaint alleging discrimination or bias.
3. **Improper detention or arrest.** These will be reviewed to identify any complaint involving unconstitutional policing issues.
4. **Improper tactics.** These will be reviewed to identify any complaint involving unconstitutional policing issues.
5. **Harassment.** These will be reviewed to determine if unconstitutional policing issues are involved.
6. **Discrimination.** These will be reviewed to identify any complaint involving unconstitutional policing issues.
7. **Off-duty conduct.** These will be reviewed to determine why they were handled as WCSCRs rather than as Administrative Investigations.
8. **Could Have Been Better.** Each of these cases will be reviewed to ensure it was classified properly and that the adjudication appears on the employee's PRMS.
9. **Should Have Been Different.** Each of these cases will be reviewed to ensure it was classified properly and that the adjudication appears on the employee's PRMS.
10. **Administrative Investigations.** These cases will be reviewed to determine if they were classified properly and if the disposition appears on the employee's PRMS.

## **XI. AUDIT FINDINGS**

### **Objective 1: Complaint Intake**

*LASD shall continue to make personnel complaint forms and informational materials, including brochures and posters, available at appropriate County or municipal properties in the Antelope Valley, including, at a minimum, LASD stations, courts, county libraries, and LASD websites, and make them available to community groups upon request (§1124).*

*LASD will continue to accept all personnel complaints, including anonymous and third-party complaints, for review and investigation. Complaints may be made in writing or verbally, in person or by mail, telephone (or TDD), facsimile, or electronic mail, as well as in the field. Any Limited English Proficient (LEP) individual who wishes to file a complaint about a LASD deputy or employee shall be provided with a complaint form and informational materials in the appropriate non-English language and/or be provided appropriate translation services in order to file a complaint (§1125).*

*The refusal to accept a personnel complaint, discouraging the filing of a complaint, or providing false or misleading information about filing a complaint, shall be grounds for discipline, up to and including termination (§1126).*

#### Objective 1.1: Availability of Complaint Material

Members of the Monitoring Team inspected the locations identified under the minimum requirement for paragraph 124, e.g., LASD stations, courts, and libraries.<sup>11</sup> If clarification was required, interviews were conducted with the staff members working at those locations. The inspection team specifically looked for the complaint form in English<sup>12</sup> and Spanish.<sup>13</sup>

1. **Sheriff Stations.** The Sheriff's Department has two stations in the AV. Both stations were inspected on June 13, 2017, and again on September 19, 2017.

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<sup>11</sup> The Parties have not yet agreed on any other facilities that constitute "appropriate County or municipal properties in the AV."

<sup>12</sup> Form No. SH-CR-596 (REV. 10/2016)

<sup>13</sup> Form No. SH-CR-596A (REV. 10/2016)



- Palmdale Station, 750 East Avenue Q, Palmdale  
Complaint Forms in English and Spanish are on display and readily available at the front desk of the Palmdale Station. Next to those forms are pamphlets, in both English and Spanish, titled, "What to do if you are stopped by a Deputy Sheriff in the Antelope Valley." Those forms are Palmdale specific and contain several suggestions on how someone could make a complaint about a deputy's conduct.
- Lancaster Station, 501 West Lancaster Boulevard, Lancaster  
Immediately next to the front desk of the Lancaster Station is a poster titled "Office of the Sheriff, County of Los Angeles, Procedures for Public Complaints" describing how a complaint can be made against a Department employee. Directly under the poster, Complaint Forms and the "Procedures for Public Complaints" informational forms are readily available in both English and Spanish. Next to those forms are pamphlets, in both English and Spanish, titled, "What to do if you are stopped by a Deputy Sheriff in the Antelope Valley." Those forms are Lancaster specific and contain several suggestions on how someone could complain about a deputy's conduct.

During a site visit on September 19, 2017, the Monitors noted that the complaint and information forms displayed in a wall holder had folded over, making them unreadable. This defeats the purpose of having them on display in the public area of the station.

**Recommendation 6: The Department needs to ensure that complaint forms and informational materials are not only on display but clearly visible in the public areas of each AV station.**

2. **Courts.** The Los Angeles County Superior Court's website shows there are two courthouses in the Antelope Valley. Both courthouses were inspected on June 13, 2017.
  - Antelope Valley Superior Court, 42011 4th Street West, Lancaster  
This four-story building houses adult criminal and civil courtrooms. On entering the building there is a rather large lobby with an information counter. Staff at the counter had no information on complaint materials and referred the auditor to the Sheriff's sub-station inside the facility. Access to that area requires passing through a metal detector. Once inside, the Sheriff's substation is the first office on the left. The staff person at that counter was well aware of the complaint material and was able to retrieve an English form from underneath the counter. They were not on public display. She did not have the form in Spanish. They ran out of the printed forms in Spanish some time ago and have been giving

requestors a copy of the Spanish form. However, it appears someone gave out the last copied form, so now they do not have any forms in Spanish.

- Juvenile Justice Center, 1040 West Avenue J, Lancaster  
This single-story building houses juvenile courtrooms. Immediately upon entering the building, visitors are required to pass through a metal detector. There is a bulletin board just after the metal detector, but no complaint information is posted there or anywhere else. The staff on duty did not recognize the complaint forms and said they knew nothing about them. No complaint material was on display, and no one knew about the forms.

Auditors made an Interim Audit Notification to Department staff regarding the lack of complaint material in these facilities, and we understand corrective measures were taken immediately.

3. **Libraries.** The County of Los Angeles Public Libraries website shows there are five public libraries in the Antelope Valley. Those five libraries were inspected on June 12, 2017.

- Acton Agua Dulce Public Library, 33792 Crown Valley Road, Acton  
The library is housed in a single-story building. A bulletin board to the right of the reception area had an "Office of the Sheriff, County of Los Angeles, Procedures for Public Complaint" poster clearly displayed. No complaint pamphlets were on display, however, and staff were unable to produce such material when asked. The Library Manager stated they have not had any complaint forms for at least six months.
- Littlerock Community Public Library, 35119 80th Street, East, Littlerock  
The library is housed in a single-story building that is badly in need of maintenance. A bulletin board inside the library clearly displayed an "Office of the Sheriff, County of Los Angeles, Procedures for Public Complaint" poster. No complaint pamphlets were on display, and staff were unable to produce such material when asked. The Branch Manager stated she has worked at the library for more than ten years and there have never been any complaint forms or other complaint informational materials at the library.

- Quartz Hill Community Library, 5040 West Avenue M-2, Quartz Hill  
The library is housed in a single-story building. To the left of the reception desk, below eye level, was an "Office of the Sheriff, County of Los Angeles, Procedures for Public Complaint" poster. The poster was partially obscured by a cart containing books. No complaint pamphlets were on display, and staff were unable to produce such material when asked. The Library Manager stated no complaint forms or any other complaint informational materials have been at the library for at least six months.
- Lake Los Angeles Community Library, 16921 East Avenue O, #A, Palmdale  
The library is located in strip mall. A poster titled "Office of the Sheriff, County of Los Angeles, Procedures for Public Complaint" was posted below eye level in the reception area. No complaint pamphlets were on display, and staff were unable to produce such material when asked. The librarian stated they used to have complaint forms and other complaint informational materials available to the public, but they were not replaced after their supply was distributed. She did not know how long they had been without the complaint forms or informational materials.
- Lancaster Community Library, 601 West Lancaster Boulevard, Lancaster  
The library is housed in a large, modern building within a few minutes' walk of Lancaster Station. A bulletin board inside the library had an "Office of the Sheriff, County of Los Angeles, Procedure for Public Complaint" poster clearly displayed at eye level. On a desk near the Children's Section of the library was a pamphlet titled, "What to do if you are stopped by a Deputy Sheriff in the Antelope Valley." That pamphlet was only in English. There were no other complaint pamphlets on display, and staff were unable to produce such material when asked. The librarian was unaware of any other forms or complaint informational materials being available to the public at that library.

Auditors made an Interim Audit Notification to Department staff regarding the lack of complaint material in these facilities, and we understand corrective measures were taken immediately.

**Recommendation 7: The Department needs to implement a system that ensures complaint material is on display and remains on display at the designated facilities.**

4. **Community Groups.** The Monitoring Team has attended numerous community meetings throughout the Antelope Valley. Whenever a Sheriff's representative has been present, complaint materials have been on display, usually on a table near the entrance to the meeting. We are aware of no case in which a community group's request for complaint materials has not been met.

5. **LASD Website.** The Department's home page has a link under "Popular LASD Services" titled "Commendations/Complaints." That tag opens up instructions and a form. The instructions say a person can make a commendation or complaint by calling or writing a sheriff's station. (No phone numbers or addresses are provided.) In the alternative, the complainant can:

- Fill out the form provided on that webpage and submit it. On June 17, 2017, MT staff submitted the form asking, "Who can I talk to about a deputy who stopped me for no good reason in the Antelope Valley?" The form included a phone number for staff, but no one ever called about the complaint.

This same problem was found in one of the cases reviewed for this audit (L-21). The case package included a complaint form completed by the complainant. According to staff at the involved Unit, it appears the complaint form was submitted online but not forwarded to the Unit until about 10 months later.

- Send an email to [webemail.lasd.org](mailto:webemail.lasd.org). On June 17, 2017, MT staff sent an email to that address asking, "Who can I talk to about a deputy who stopped me for no good reason in the Antelope Valley?" No one ever returned the email.
- Call 1-800-698-TALK. On Saturday June 17, 2017, at 10:30 a.m., MT staff called that number. After 11 rings, a recorded voice answered, saying, "Your party is not answering. Please try your call later. We're sorry, but your call will now be disconnected 045P." The call was then disconnected. The call was repeated several times on successive weekends with the same result. When a call is made during normal business hours, a Sheriff's representative answers the phone, but the call is disconnected on weekends.

Auditors made an Interim Audit Notification to Department staff regarding the inability to file a complaint using the Department's website. We understand corrective measures were taken immediately.

**Recommendation 8: The Department needs to ensure the method(s) it provides on its website for the public to make a complaint works, is monitored regularly, and results in timely action.**

6. **Unit Websites.** Auditors examined each AV Unit's website to determine if complaint information was available. There is nothing on Lancaster's website regarding Personnel Complaints. Palmdale's website has a link titled "Commendation/Complaint Form," but it only takes the user to the Department's webpage.

**Recommendation 9: The Department should ensure that complaint information is available on every command's individual website.**

Objective 1.2: Discouraging or Inhibiting a Complaint

There were nine cases in which a complainant alleged a deputy discouraged or inhibited the making of a complaint. In three of those cases, the allegation was identified and addressed appropriately (L-4, L-11 and L-13). Six of the complaints had problems.

- *P-1.* Complainant demanded to speak with a supervisor, and one showed up but allegedly did not exit his car. This allegation was included as an allegation and was not adjudicated.
- *P-6.* The complainant alleged she came to the station to make a complaint, but the desk deputy refused to take the complaint or call a supervisor. Even though the deputy working that night has a unique appearance that matched the complainant's description, this allegation was not identified as an allegation or adjudicated.
- *P-13.* The complainant alleged the detective tried to dissuade her from making a complaint against another deputy. This allegation was not identified as an allegation or adjudicated.
- *P-14.* The WC discussed the issue with complainant on the phone for some time, and she alleged she told him several times that she wanted to make a complaint. When she finally asked if a complaint had been made, the WC said he needed to put her on hold to retrieve the form. She said she would prefer to make her complaint with IAB, which she did.
- *P-24.* This incident was recorded on a WC log and states the complainant alleged the deputy inhibited his making a complaint. That allegation was repeated in the WCSCR face sheet, but this allegation was not identified as an allegation or adjudicated.

- *L-21.* Complainant came to the station asked to speak to the WC about the way deputies handled two violations of a temporary restraining order he had obtained and that a sergeant was rude to him when he called to complain. Complainant alleged that the sergeant he came to complain about came to the desk and began yelling and cussing at him. The sergeant refused to take the complaint, so the complainant called IAB. The investigative package for this complaint contains a complaint form the complainant apparently filled out and submitted via the Internet. However, it was not forwarded to the Unit until about 10 months later.

When an allegation of inhibiting or discouraging a complaint was identified and adjudicated, it was sometimes classified as Neglect of Duty (NOD) and in other cases classified as Other. That lack of consistency inhibits the Department's ability to deal with these issues and identify patterns.

**Recommendation 10: The Department's Manual of Policies and Procedures needs to clearly state its expectations regarding supervisory notification and intake of complaints.**

**Recommendation 11: The Service Comment Report should be modified to capture allegations of discouraging or inhibiting complaints.**

#### Objective 1.3: Prompt Initiation of Complaint Investigation

Three complaints appear to have been brought to the Department's attention when the incident occurred, but a WCSCR was not initiated until much later.

- *L-18.* In November 2014, complainant was arrested for being an incorrigible minor. Since then, she has filed three complaints alleging that the arresting deputy touched her inappropriately. Lancaster Station investigated these complaints but did not complete a WCSCR report until the last one.

- » On January 7, 2015, complainant came to the station and alleged the deputy touched her inappropriately. The allegation was investigated, and, during a recorded interview, the complainant recanted her allegation, saying she was just angry at being arrested. A thorough report titled Allegation of Misconduct was submitted, but no WCSCR was completed.
  - » On May 12, 2015, Complainant made a Suspected Child Abuse Report alleging the deputy who arrested her in November 2014 touched her inappropriately. The complaint was investigated by a Lancaster Lieutenant and Sergeant from LASD's Special Victim's Bureau. The complaint was classified as unfounded, but again, no WCSCR report was completed.
  - » On March 7, 2016, the Complainant called IAB and alleged the deputy who arrested her in November 2014 touched her inappropriately. Finding no record of the previous investigations, IAB completed a WCSCR and forwarded it to Lancaster for investigation. The investigating WC relied heavily on the two prior investigations and classified the complaint as Reasonable.
- *L-12.* Complainant alleged a deputy intentionally placed handcuffs on her too tightly, causing injury to her wrists. A sergeant was assigned to conduct a use-of-force investigation and completed an extensive report. A WCSCR was not initiated until six weeks later.
  - *L-21.* The investigative package for this complaint contains a complaint form that the complainant apparently filled out and submitted via the Internet. However, it was not forwarded to the Unit until about 10 months later.

#### Objective 1.4: Repetitious Complainant

The Department has a procedure whereby a person who consistently makes frivolous complaints can be designated a Repetitious Complainant. That process requires extensive documentation and written approval from the Division Chief. Auditor's review of WC logs for the audit period identified a complaint made by a person who had been designated a Repetitious Complainant. Auditors obtained a copy of the related arrest report, complaint letter, and Repetitious Complaint Log. Auditors also reviewed the report approved by the Division

Commander placing the complainant in the Repetitious Complainant file. This complaint and the complainant's designation as a Repetitious Complainant appear to have been handled correctly.

#### Monitor's Finding Objective 1: Complaint Intake

The Department is *not* in compliance with SA paragraphs 124, 125, and 126, which require that Personnel Complaint forms and information be available at specified locations and on their website, that the Department accept all complaints, and that refusing to accept a complaint or discouraging a complaint is grounds for discipline.

#### **Objective 2: Investigation of Complaints**

*LASD will not permit any involved supervisor, or any supervisor who authorized the conduct that led to the complaint, to conduct a complaint investigation (§1133).*

*The misconduct investigator shall seek to identify all persons at the scene giving rise to a misconduct allegation, including all LASD deputies. The investigator shall note in the investigative report the identities of all deputies and other witnesses who were on the scene but assert they did not witness and were not involved in the incident. The investigator shall conduct further investigation of any such assertions that appear unsupported by the evidence (§1134).*

*All witnesses, including deputies witnessing or involved in an incident that becomes the subject of a personnel complaint, shall provide a written statement or be interviewed as described below (§1135).*

*The SCR complaint investigator shall interview each complainant in person, if practical. Misconduct investigators will conduct additional interviews as necessary to reach reliable and*



*complete findings. Interviews shall be recorded in their entirety, absent documented extraordinary circumstances (§136).*

*Consistent with current policy, interviews shall be conducted separately. An interpreter not involved in the underlying complaint will be used when taking statements or conducting interviews of any LEP complainant or witness (§137).*

*All personnel conducting Service Comment Reviews and unit level investigations in the Antelope Valley shall receive initial training regarding conducting deputy misconduct investigations, and shall receive refresher training each year. This training shall include instruction in:*

- a. *investigative skills, including proper interrogation and interview techniques, gathering and objectively analyzing evidence, and data and case management;*
- b. *the particular challenges of personnel complaint reviews/investigations, including identifying alleged misconduct that is not clearly stated in the complaint or that becomes apparent during the investigation, properly weighing credibility of civilian witnesses against deputies, using objective evidence to resolve inconsistent statements, and the proper application of the preponderance of evidence standard;*
- c. *relevant state, local and federal law, including state employment law related to deputies and the rights of public employees, as well as criminal discovery rules such as those set out in Garrity v. New Jersey, 385 U.S. 493 (1967), and Brady v. Maryland, 373 U.S. 83 (1963); and,*
- d. *LASD rules and policies, including the requirements of this Agreement, and protocols related to criminal and administrative investigations of alleged deputy misconduct (§139).*

*LASD shall make efforts to resolve material inconsistencies between witness statements (§131).*

## Monitor Activity

Note: Some SA provisions in the Investigative section of the agreement are more appropriately addressed under Adjudication. For example, automatically giving a deputy's statement preference is more adjudicative than investigative. This report addresses the SA's provisions under their actual functionality.

### Objective 2.1: Proper Classification: Service Versus Personnel Complaint

Two of the 52 complaints reviewed for this audit were classified as Service Complaints.

- *L-15*. This complaint was investigated and adjudicated as a Service Complaint, with a disposition of Review Complaint—Service Only—No Further Action. However, the Complainant was alleging that the detective failed to conduct a thorough follow-up investigation. Thus, it should have been a Personnel Complaint with the disposition of Reasonable because the investigation clearly showed the detective did conduct a thorough follow-up investigation.
- *P-27*. This was recorded as a Service Complaint, and it was, in fact, service related.

### Objective 2.2: Uninvolved Investigator

There were three cases in which the assigned investigator was involved in or authorized the conduct that led up to the complaint. In one case (L-3) the supervisor's involvement was very minimal, but in the other two (L-12 and P-25) an uninvolved supervisor should have been assigned or, if none was available, it should have been noted in the investigation.

- *L-3*. Complainant alleged a detective stopped her in the field for no valid reason. However, the detective was at his desk working on his cases and some work his Lieutenant had given him when the alleged detention occurred. Technically, his Lieutenant was a witness and should not have done the investigation, but his involvement was peripheral, and the other evidence was overwhelming.

- *L-12.* A deputy took a very drunk woman into custody and transported her to the station. She alleged the deputy put the handcuffs on too tight. The evidence overwhelmingly refuted the complainant's allegation and showed that no use of force occurred. However, the sergeant who completed the UOF complaint investigation was at the scene during the arrest and should not have been assigned the investigation.
- *P-25.* The supervisor who conducted the Alleged Use of Force investigation was a percipient witness to the alleged misconduct.

### Objective 2.3: Identify all Allegations

SA paragraph 130 requires the Department to "investigate every allegation of misconduct that arises during an investigation even if an allegation is not specifically articulated as such by the complainant." There were 11 cases in which all the allegations were not identified in the report.

- *L-2.* Complainant alleged Improper Detention, Search, or Arrest (D/S/A) and that the deputy made sexual advances toward her. But only the Improper D/S/A was identified as an allegation.
- *L-9.* Complainant alleged the deputy was discourteous and failed to have a unit dispatched for his complaint about bikes racing in the park. The investigation only identified the discourtesy allegation.
- *L-14.* The investigation failed to allege a sergeant seized a recording device from the complainant in violation of the SA.
- *L-17.* The investigation did not address the appropriateness of a backseat detention.
- *L-20.* The investigation did not address a Discrimination Complaint or backseat detention
- *L-22.* An allegation of discrimination was not addressed adequately. The investigation into that allegation consisted solely of noting that one deputy was Hispanic and the other's wife was Hispanic.

- *P-6.* The complainant alleged the deputy tried to dissuade her from making a complaint, but that was not alleged or adjudicated.
- *P-8.* The complainant alleged the deputy was discourteous, but that allegation was never clarified with the complainant, nor was the deputy asked about it. Additionally, the backseat detention was not alleged or investigated.
- *P-13.* The allegation on the WCSCR report and in PRMS is Improper Tactics. But the complainant alleged Neglect of Duty and Inhibiting a Complainant.
- *P-16.* The complainant alleged Neglect of Duty, but that was not identified as an allegation or adjudicated.
- *P-24.* The complainant alleged the deputy tried to discourage him from making a complaint, but that was not identified as an allegation or adjudicated.

#### Objective 2.4: Identify Everyone Involved

There were five cases in which it appears an involved employee was not identified.

- *L-7.* One of the deputies whom witnesses said was in the report room was not interviewed nor did he make a statement.
- *L-10.* The complainant was the arrestee's mother, who apparently speaks only Spanish. She did not witness the incident—she only said that her son wouldn't do such a thing. However, she was the complainant and should have been interviewed.
- *L-18.* The sergeant who was at the scene of arrest and followed the deputy to the station was not interviewed.
- *P-6.* The complainant alleged she came to the station, and the desk deputy refused to take her complaint. Though the complainant described the desk deputy on duty at that time, the person was never identified or interviewed.
- *P-21.* The complainant alleged the desk deputy was rude to her. The investigator went through the desk log book and located a person who was there at the time the incident allegedly occurred.

**Significant Finding 4: The investigator for this case (P-21) is to be commended for conducting a diligent investigation.**

### Objective 2.5: Limited English Proficiency

There were two cases in which an involved person spoke only Spanish.

- *L-10.* The complainant, the arrestee's mother, wrote her letter in Spanish. The letter was never translated, and she was never interviewed. The command's disposition letter to her was in English. The arrestee was interviewed in English, but there were indications he may have limited proficiency in English. Auditors listened to his interview, and although he spoke with an accent, he had no trouble understanding and responding to the questions posed.
- *P-10.* The complainant's mother was in the car when the alleged misconduct occurred. She speaks only Spanish, and a Palmdale Law Enforcement Technician was used to interpret.

### Objective 2.6: Interview Complainant in Person, if Practical

None of the Lancaster complainants and only one of the Palmdale complainants (P-12) was interviewed in person by the investigator. Most interviews were done telephonically, usually on a recorded line. The investigations did not include any documentation that the person preferred telephonic interview or that an in-person interview was impractical.

### Objective 2.7: Recorded Interviews

Complainant interviews were always recorded, and interviews of witnesses associated with a complainant were also recorded. Interviews of independent witnesses and deputies were never recorded.

### Objective 2.8: Interview Deputies Separately

In nine Lancaster cases (L-2, L-5, L-13, L-14, L-16, L-19, L-21, L-22, and L-24) and fifteen Palmdale cases (P-1, P-2, P-4, P-7, P-8, P-9, P-10, P-13, P-17, P-18, P-20, P-22, P-24, P-25, and P-26) multiple deputies were interviewed, but there is no documentation showing they were interviewed separately. There was no indication that group interviews occurred, just no documentation that they did not.

### Objective 2.9: Collect Evidence

There were four Lancaster cases where there is no documentation that pertinent evidence was collected.

- *L-7.* The investigation contains an unsigned request from 2012 to have complainant declared a Chronic Complainant, and there is no indication if the document was signed or not. The inclusion of unsigned documents in an official investigation raises doubt about it being a factor in adjudicating the case.
- *L-10.* There is no evidence the complainant's letter in Spanish was ever translated. Without that there is no way to know (or review) what she said in her letter.
- *L-13.* The complainant alleged his wife was falsely arrested for 5150 WIC (Mental Threat). She was released after only four hours, but the investigator never interviewed the doctor to determine why she was released so quickly. (See Risk Management Issues below.)
- *L-20.* While walking to the room where he is to be interviewed about an incident that occurred three months earlier, one of the accused deputies told the investigator he may have recorded the contact with complainant. The investigator let the deputy go to his locker, and when he returned he told the investigator the recording "did not exist." The investigator did not ask any follow-up questions such as, "Why did you think it may have been recorded?" or "Why didn't you tell us about this sooner?"

None of the Palmdale cases had an evidence collection issue.

### Objective 2.10: Timeliness of Investigation

With one exception, all complaints were investigated in a timely manner. The one exception was the case involving an anonymous report of off-duty deputies throwing bottles at someone and challenging them to fight (P-28). Other than that one case, Palmdale cases were submitted in about six weeks from when the WCSCR was initiated, and Lancaster cases were submitted in about three weeks. The difference between the two units was most often caused by the complexity of some Palmdale complaints.

### Objective 2.11: Reliability of Investigation

As stated earlier, the SA requires the investigation to be complete and thorough enough to support reliable conclusions. There were eleven cases (21%) where the documentation falls short of that standard.

- *L-2.* Complainant alleged that the deputy made sexual advances toward her, but only her allegation of Improper Detention, Search, or Arrest (D/S/A) was identified as an allegation. Additionally, the Complainant has 16 prior narcotics arrests, 14 by AV deputies, but the investigation contained no information on whether she made a complaint in any of the prior 15 arrests.
- *L-12.* An extremely intoxicated female arrestee alleged the arresting deputy intentionally placed handcuffs on her too tightly, causing injury to her wrists. An alleged use-of-force investigation was completed by a sergeant who had been at the scene of the arrest. Even though the evidence, including a statement from the ER doctor, showed the allegation did not occur, the investigation should have been done by an uninvolved supervisor.
- *L-13.* Complainant alleged his wife was falsely detained for 5150 WIC (Mental Threat). There was no statement from the doctor regarding the necessity for the detention, and without that information there is no way to assess this complaint. (This is discussed further in Objective 4, Risk Management, below.)

- *L-20.* An allegation of discrimination was not addressed, and the partner deputy was never asked if he saw his partner use force or heard him use profanity. (Both those allegations were sustained against the partner deputy.)
- *L-22.* An allegation of discrimination was not addressed adequately. The investigation into that allegation consisted solely of noting that one deputy was Hispanic and the other's wife was Hispanic.
- *P-1.* The investigator did not identify the sergeant who allegedly drove by without exiting his car, and he did not ask the accused deputy if a sergeant responded and did not exit his car.
- *P-8.* The investigator did not address the discourtesy allegation. Additionally, some of the investigator's word selections, such as "ridiculous complaint" and "outright lies," can raise a question of objectivity. (This occurred in another of this person's investigations—P-6—also.)
- *P-24.* The summary of the complainant's statement as well as his girlfriend's statement are very vague regarding precisely how the deputy allegedly searched her for narcotics.
- *P-25.* The investigator did a thorough investigation, but she was a percipient witness to the alleged misconduct.
- *P-28.* The investigator did not send a sergeant to investigate the complaint of off-duty deputies at a bar throwing bottles at the complainant and challenging him to fight. He didn't call the bar until three weeks after the complaint was filed and left a message. A week after that he went to the bar to interview the owner, who vaguely remembered some sort of disturbance. By that time (four weeks later) the bar's video camera had recorded over the incident being investigated.

#### Objective 2.12: Investigations by Field Sergeants

Sergeants were present at 19 of the 52 (37%) incidents that resulted in a Personnel Complaint (seven of 28 for Palmdale and 12 of 24 for Lancaster). In several cases the sergeant appeared to have been intimately involved in decisions regarding the way in which high-risk incidents were handled (L-13, L-14, and L-20). In order to review the thought process behind those decisions, auditors requested the supervisors' logs for the shifts in which those incidents



occurred. None of the logs contained any rationale for the decision that was made or documentation of the information that was available to the supervisor making the decision.

The Department uses the Deputy Daily Worksheet that is produced by the Computer Aided Dispatch (CAD) system for its sergeant's log. The Worksheet consists of CAD data for each of the calls, assists, and self-generated activities in which a deputy (supervisor in this case) becomes involved in during their shift. The system allows a deputy (supervisor) to add comments to an incident history, but the entry is limited to 160 characters. Additionally, those comments become part of the call history and can be retrieved by anyone with access to CAD.

In addition to providing advice and direction to field units, field supervisors perform myriad other tasks that do not lend themselves to recordation in a CAD system. For example, they debrief tactical situations, provide deputies with remedial training, and deal with sensitive personnel issues. More germane to this audit, our site visits disclosed a field supervisor is occasionally assigned to meet with a community member who is displeased with some aspect of police service. While it may be appropriate for the supervisor to resolve any concern that does not rise to the level of a formal complaint, those incidents need to be reported and reviewed by Unit managers. Many law enforcement agencies have their field supervisors complete a narrative log (much like the Department's Watch Commander log) as a vehicle to record their supervisory activities and communicate with their lieutenant and captain.

**Recommendation 12: To comply with the SA, the Department needs to establish a process to record its handling of community complaints that do not result in the initiation of a WCSCR.**

**Recommendation 13: The Department should consider requiring field supervisors to complete a narrative log to record their supervisory activities during each shift.**

## Monitor's Finding Objective 2: Investigation of Complaints

The Department is *not* in compliance with SA's provisions for the investigation of public complaints.

In all, the investigations reviewed for this audit were quite good. In most cases everyone was interviewed and all evidence was collected. However, there were several cases in which key witnesses were not interviewed and no explanation is given. Further documentation was lacking to show that deputies were interviewed separately and that interviewing for a complaint in person was impractical. These are easy "fixes" but will require attention to detail if the Department is to achieve compliance with the SA's requirements for personnel investigations.

The key SA provision regarding investigations reads: "All investigations of Antelope Valley personnel complaints, including reviews, shall be as thorough as necessary to reach reliable and complete findings" (§1131). Eleven of the 52 cases contained in this audit (21%) fell short of that standard. That is far too many errors to find the Department in compliance in this area. Predominately, the shortcoming involved the failure to clearly identify all the allegations at the beginning of the investigation and gather evidence to prove or disprove each one.

### **Objective 3: Adjudication of Complaints**

*Antelope Valley unit commanders shall be responsible for appropriately classifying each allegation and personnel complaint (§1130a).*

*LASD agrees to continue to require station commanders in the Antelope Valley to refer alleged incidents of misconduct to IAB or ICIB for further investigation or review consistent with the Administrative Investigations Handbook. If the case proceeds criminally, the Division Chief over*

*the Antelope Valley will review the matter with the unit commander of IAB to determine whether the administrative investigation may proceed on a parallel track. . . . If the matter proceeds on a parallel track, any compelled interview of the subject deputies may be delayed (§1132).*

*LASD will . . . ensure that all personnel allegations are accurately classified at all investigative stages, from intake through resolution, so that each allegation receives the appropriate level of review required under policy (§1127).*

*LASD will ensure that personnel complaints are not misclassified as service complaints (§1128).*

*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 (§1130b).*

*All investigations of Antelope Valley personnel complaints, including reviews, shall be as thorough as necessary to reach reliable and complete findings (§1131a).*

*LASD shall consider all relevant evidence, including circumstantial, direct and physical evidence, as appropriate, and make credibility determinations based upon that evidence (§1131b).*

*There will be no automatic preference for a deputy's statement over a non-deputy's statement, nor will LASD disregard a witness' statement merely because the witness has some connection to the complainant or because of any criminal history (§1131c).*

### Objective 3.1: Command Involvement in Classifying and Identifying Allegations

There is only one case with documentation of command oversight or involvement in the initial classification of complaints and identification of allegations. For the rest of the WCSCR reports, the only documented involvement is the captain's signature on the Result of Service

Comment Review form. We doubt a captain's involvement is that limited, but there is no documentation showing otherwise.

The WCSCR investigation is completed by the Watch Commander who, with two exceptions (L-1 and L-6), was a lieutenant. The format for the WC's investigation starts with a list of the allegation(s) being investigated and concludes with a section titled Findings, where the WC summarizes the evidence supporting or refuting each allegation, and a section titled Recommendations, where the WC recommends the classification for each allegation. The captain then checks a box on the Result form, usually Recommended Outcome Approved—No Further Action and signs the report.

The Department needs to consider separating the investigation of complaints from the adjudication of those complaints. The lack of separation in the current system between investigation and adjudication poses a significant risk management issue. In effect, the WC is the investigator and adjudicator of community complaints with the Unit and Division Commanding Officers simply approving their work.

**Recommendation 14: The Department should separate the investigation from the adjudication of critical events such as public complaints and uses of force.**

We recognize this recommendation is inconsistent with Use of Force paragraph 112, which requires the supervisor investigating a UOF to include an evaluation of the force and determine if the deputy's actions appear to be within LASD policy. However, a sound risk-management strategy requires a "separation of duties" between those who investigate events and those who make management decisions based upon those investigations.

### Objective 3.2: Discrimination Complaints

On August 19, 2013, the Commanding Officer of North Patrol Division issued a Division Order titled Unit Commanders Responsibility for Discrimination Complaints. That order requires Unit Commanders to meet personally with the complainant to identify the nature of the Discrimination Complaint and make every effort to “facilitate a Conflict Resolution session between the reporting party and the involved personnel.” The Compliance Unit brought this order to our attention during a discussion among the SA Partners about the way Discrimination Complaints are handled. There are also several SA provisions that stress the importance of bias-free policing and require a decisive response to any such allegation. As a result, auditors paid particular attention to the complaints alleging discrimination.

In Palmdale, there were two complaints of discrimination (P-9 and P-10) and one complaint of racial profiling (P-19). In one of the discrimination cases (P-10) and the profiling case (P-19) there was documentation that the commanding officer called the complainant after the case was adjudicated to explain the disposition. In the other discrimination case (P-9) there was no documentation in the complaint files of compliance with the Division Order.

In one of the discrimination cases (P-10) the investigator provided a detailed analysis of the deputy’s citation history by race and ethnicity along with an analysis of citations issued by Palmdale deputies and Palmdale demographics. That information provided an outstanding analysis upon which to base a sound adjudication.

**Significant Finding 5: The investigator for this case (P-10) is to be commended for conducting a diligent investigation.**

None of the Lancaster complaints alleging discrimination (L-20 and L-22) contained documentation of compliance with this directive. In fact, both complaints containing an allegation of discrimination were investigated and adjudicated without adequately investigating or adjudicating discrimination as one of the allegations. In one case (L-20), the complainant's allegation of discrimination was not included as an allegation in the Administrative Investigation, and that allegation in the complainant's letter could not have been clearer:

*This event has racial over tones, would I have received this same treatment by these officers if I had been a 78-year old Caucasian? This is an element of common police practice in the Antelope Valley relating to African American men regardless of their age, professional status or medical condition.*

### Objective 3.3: Identify All Allegations

For 12 out of the 52 investigations (23%), allegations of misconduct were not identified as allegations in the complaint or marked as allegations on the WCSCR.

- L-2. The complainant alleged Improper Detention, Search, or Arrest and that the deputy made sexual advances toward her. But only the Improper D/S/A was alleged or investigated.
- L-5. A complaint of failing to care for the arrestee's property was classified as Other rather than Neglect of Duty.
- L-9. The complainant alleged the deputy was discourteous and failed to initiate a call-for-service about bikes racing in the park. The investigation only addressed the discourtesy allegation.
- L-14. The investigation disclosed that the supervisor on scene took the complainant's phone from her while she was trying to record the incident. That was not identified as an allegation or adjudicated.
- L-17. The adjudication did not address the appropriateness of a backseat detention.

- *L-20.* A complaint of discrimination and the partner deputy's possible failure to report misconduct were never addressed.
- *L-22.* An allegation of discrimination was not addressed adequately. The investigation into that allegation consisted solely of noting that one deputy was Hispanic and the other's wife was Hispanic.
- *P-6.* The complainant alleged she came to the station to make a complaint, but the desk deputy refused to take a complaint or call a supervisor. Even though the deputy working that night has a unique appearance that matched the complainant's description, this allegation was not identified as an allegation or adjudicated.
- *P-8.* The complainant alleged the deputy was discourteous, but that allegation was never clarified with the complainant nor was the deputy asked about it. Additionally, the backseat detention was not alleged or investigated.
- *P-13.* The complainant alleged the detective tried to dissuade her from making a complaint against another deputy. This allegation was not identified as an allegation or adjudicated.
- *P-16.* The complainant alleged Neglect of Duty, but that was not identified as an allegation or adjudicated.
- *P-24.* This incident was recorded on a WC log that states the complaint alleged the deputy inhibited him from making a complaint. That allegation was repeated in the WCSCR face sheet, but it was not identified as an allegation or adjudicated.

#### Objective 3.4: Identify SA-Related Allegations

The SA includes a requirement that the Department "shall investigate every allegation of misconduct that arises during an investigation even if an allegation is not specifically articulated as such by the complainant" (¶130). The audit identified several investigations that contained elements for two of the activities specifically addressed in the SA: backseat detentions and public recordation of law enforcement operations.

**1. Recording Police Activity**

*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 . . . seizing and/or searching a camera or recording device without a warrant (§1106, emphasis added).*

*L-14.* The investigation disclosed that the supervisor on scene took the complainant's phone from her while she was trying to record the incident. This was neither alleged in the complaint nor addressed in the adjudication.

**2. Backseat Detention**

*LASD-AV deputies may not conduct backseat detentions as a matter of course during routine traffic stops or domestic violence situations. When LASD-AV deputies do conduct backseat detentions, LASD shall continue to require deputies to explain to civilians in a professional and courteous manner why they are being detained in the backseat of patrol cars. LASD will not permit backseat detentions based on unreasonable or factually unsupported assertions of deputy safety. Backseat detentions shall not be used except where the deputy has an objectively reasonable belief that the detained person may pose a threat or be an escape risk. In instances where the backseat detention is premised on weather conditions or the detainee's articulated desire for privacy or personal safety, the deputy will inform the individual that the detention is optional (§148).*

- *L-17.* The complainant, a 16-year old juvenile, was detained for crossing the street outside the crosswalk. He became verbally abusive and challenged the deputy's right to detain him. The deputy requested backup, and when the second deputy arrived they handcuffed the complainant "to avoid needing to use force." They placed him in the back seat of the patrol car while they searched his backpack. The adjudication did not address the appropriateness of the backseat detention.
- *L-20.* In response to a radio call, deputies detained a 78-year old man for investigation of possible stealing license plate stickers. After handcuffing him, they decided to detain him in the back seat of the patrol car. There was no reason given for that decision, and the adjudication did not address the appropriateness of the backseat detention.
- *P-1.* The complainant was being detained for illegally parking in a handicap space. He was being uncooperative, so the deputy requested backup and a supervisor. Once they arrived, the deputy placed the complainant in the back seat while other deputies searched his car. There is no rationale offered for that detention.



- *P-8.* A driver and his girlfriend were detained in the back seat of the patrol car while the deputies searched their car for narcotics. The complaint investigator attempted to justify the backseat detention because the partner deputy was a loanee and the Palmdale deputy was unsure if he could control multiple suspects. That may well be, but it is beyond the limits of Department policy and the SA.

### Objective 3.5: Use of Force

Department policy and the SA both define a reportable use of force as any greater than that required for compliant searching or handcuffing and any force that results in injury or complaint of pain (1132). There were two complaints in which the complainants sustained an injury following a use of force and complained that deputies used unnecessary or excessive force, but both complaint dispositions concluded that the incidents did not constitute a reportable use of force and both complaints were classified as Reasonable.

- *L-6.* A deputy placed his knee on the back of a prone suspect to keep him from fleeing and/or assaulting the deputies trying to handcuff him. The suspect was diagnosed with a cervical strain during his pre-booking medical evaluation.
- *L-16.* The arresting sergeant grabbed the handcuffed suspect by his upper arm and put him in the back of a patrol car. The suspect sustained a bruise where the sergeant grabbed him.

Both investigations concluded that neither complaint involved a reportable use of force because neither suspect was resisting. Auditors discussed those findings with Department executives who pointed out that the Department's UOF policy defines a use of force as "any physical effort used to control or restrain another OR to overcome the resistance of another"

(emphasis added).<sup>14</sup> Department policy then defines a reportable use of force as any use of force that:

- a. Is greater than that required for unresisted searching, handcuffing, control holds, come-alongs or hobbling; or,
- b. Results in an injury including complaints of pain.

In both cases force was used to control or restrain a suspect, and the force that was used appears to have resulted in injury. Consequently, both cases should have resulted in a UOF investigation and report. In fact, because they both involved an injury, they were both a Category 2 Use of Force.

**Significant Finding 6: The Department's criteria for reporting use of force can even confuse veteran staff and command officers. This will be addressed in greater detail in the Monitoring Team's Use of Force audit, which is now underway.**

#### Objective 3.6: Deputy Statement Given Automatic Preference

There were nine Lancaster cases in which it appears the deputy's statement was automatically given preference (L-1, L-2, L-6, L-10, L-13, L-14, L-16, L-19, and L-21). Overreliance on the deputy's statement was the only justification for a finding that the deputy's conduct was Reasonable. The proper finding in each of these cases should have been Unable to Determine.

There were five Palmdale cases in which it appears the deputy's statement was automatically given preference (P-6, P-8, P-13, P-14, and P-24). Overreliance on the deputy's

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<sup>14</sup> MPP 3-10/010.00 Use of Force Defined.

statement was the only apparent justification for a finding that the deputy's conduct was Reasonable. The proper finding in each of these cases should have been Unable to Determine.

### Objective 3.7: Complainant or Witness Statement Discarded Due to Criminal History

There were no cases in which a witness or complainant's statement was discarded solely due to their criminal history.

### Objective 3.8: Preponderance of Evidence

In 15 of 52 cases (29%) the preponderance of evidence did not support the classification or there was insufficient information to reach a reliable conclusion.

- *L-1.* The complainant alleged a deputy became frustrated with her and hit her on the head with papers. The complaint was classified as Reasonable. There was no evidence to either prove or refute the allegation, so it should have been classified as Unable to Make a Determination.
- *L-2.* The allegation of Improper D/S/A was appropriately classified as Reasonable. However, the complainant also alleged inappropriate conduct that was not investigated or adjudicated. Had it been, it should have been classified as Unable to Make a Determination.
- *L-6.* The allegation of excessive force was classified as Reasonable. The complainant had a visible injury right where the contact allegedly occurred, however. Without evidence to refute or support the allegation, it should have been classified as Unable to Resolve.
- *L-10.* The allegation of Improper D/S/A was appropriately classified as Reasonable. But the second allegation of Discourtesy should have been classified as Unable to Make a Determination.

- *L-13.* A woman who was home alone called 911 to report a prowler in her back yard. The call was answered at Lancaster desk, and the deputy dispatched two units. The deputy stayed on the line with the woman, who was distraught and appeared to be talking to someone, though she was alone. She informed the deputy she was getting a knife to protect herself if the prowler tried to enter the house. The first deputy arrived and waited by the side of the house for his backup to arrive. Without telling the deputy the woman had a knife and was coming out, the desk deputy told the woman to exit the house and contact the deputy. The woman protested, but went outside while still holding the knife. As she exited, the backup unit arrived. All of the deputies drew their weapons and ordered the woman to the ground. After hesitating, the woman dropped the knife and lay on the ground. She was handcuffed and placed in the police car.

Her parents and husband arrived, but they were not allowed to talk to her. There is no documentation of mental illness or drug use in the investigation, only a vague reference to her having "recent issues with drinking alcohol." She was booked for 5150 (Mental Illness), but released four hours later. The complaint was adjudicated as Reasonable for the deputies at scene and Could Have Been Better for the desk deputy, because she failed to include information on the knife in the call information. The admitting doctor was not interviewed to obtain his expert opinion on the efficacy of the detention and the rationale for her release four hours later. That important piece of information should have been included in this report.

- *L-14.* The Improper D/S/A was appropriately adjudicated as Reasonable, but the lack of evidence to support or refute the allegation of discourtesy should have resulted in a finding of Unable to Determine for that allegation.
- *L-16.* The complainant alleged the deputy grabbed his arm too tightly and placed handcuffs on him too tightly, resulting in injury. The doctor opined that the complainant had no marks from the handcuffs but did have a fresh contusion where the deputy grabbed his arm. Other deputies and a civilian witness supported the deputy's version of events. The complaint was adjudicated as Reasonable, and it was determined no use-of-force report was required. But only the complainant and deputy could know how much pressure was applied, so the complaint should have been classified as Unable to Determine. Further, the injury made this a reportable use of force.
- *L-19.* There is no evidence to support or refute the allegation that deputies failed to conduct a thorough investigation, so this complaint should have been classified as Unable to Resolve rather than Reasonable.

- *L-21.* The complainant alleged the sergeant was rude and cursed at him. Those allegations were classified as Reasonable, but there is no independent evidence to support or refute the allegations.
- *P-6.* The complainant alleged the deputy tried to dissuade making a complaint, but that allegation was not addressed in the investigation.
- *P-8.* There was no evidence to prove or disprove the allegation of discourtesy, so it should have been classified as Unable to Determine.
- *P-13.* The WCSCR, investigation, and PRMS all show the allegation as Improper Tactics, but the actual allegation was Neglect of Duty and Inhibiting a Complainant.
- *P-14.* The allegation of failing to initiate a complaint was classified as Reasonable, but it should have been classified as Unable to Determine due to the lack of evidence to prove or refute the allegation.
- *P-19.* There was insufficient investigation into the allegation of Racial Profiling (see Objective 4: Risk Management Issues).
- *P-24.* Without a more definitive description from the complainant and his girlfriend there is no way to confidently adjudicate the allegation that the deputy inappropriately searched the girlfriend.

### Objective 3.9: Discipline

There was only one case in which formal discipline was involved (L-20). In that case the deputy was to undergo a 15-day suspension, but the deputy retired before discipline could be imposed. The contemplated level of discipline was within the discretionary range for the misconduct involved.

### Objective 3.10: Performance Log Entries

Many, but not all, complaints that were classified as Could Have Been Better or Should Have Been Different resulted in the issuance of a Performance Log Entry (PLE).

- Three Lancaster cases resulted in the issuance of a PLE (L-5, L-13, and L-14) for one or more of the involved deputies. In each case the deputy's work and complaint history were addressed and the PLE was within the boundaries of reasonable management discretion.
- Eight Palmdale cases resulted in a PLE (P-3, P-5, P-6, P-7, P-11, P-16, P-19, and P-20). None of those cases discussed the employee's complaint or work history, so there is no way to assess if the PLE was an appropriate remedy.

**Recommendation 15: Every complaint classified as Could Have Been Better or Should Have Been Different should have a section discussing the employee's work history to document the rationale for issuing or not issuing a PLE.**

#### Objective 3.11: Notification to Complainant

There were no issues with Palmdale's notifications to the complainant, but two Lancaster complaints had issues.

- *L-10.* The complainant, arrestee's mother, wrote her complaint letter in Spanish, but the complaint disposition letter to her was in English.
- *L-20.* This complaint resulted in a formal Administrative Investigation. When the WCSCR report was closed before opening the Administrative Investigation, the complainant was notified that the Department's "inquiry revealed the employees' conduct should have been different." It does not tell him an Administrative Investigation has been opened, nor is there any documentation that he was notified of the Administrative Investigation's disposition.

#### Objective 3.12: Timeliness of Adjudication

- *Unit Review.* With one exception (L-14, which took nearly four months to review) every complaint was reviewed by the Unit Commanding Officer in a timely manner. Lancaster's median approval time was three weeks and Palmdale's median review time was two weeks. Both times are well within a reasonable time frame.

- *Division Review.* The complaints were reviewed by the Division Commanding Officer or his designee in about three weeks. That is also well within a reasonable time frame.

### Monitor's Finding Objective 3: Adjudication of Complaints

The Department is *not* in compliance with the SA requirements for the adjudication of public complaints. In too many cases, allegations were not identified (23%), critical information was missing from the investigations, and adjudication was not based on preponderance of evidence (29%). Additionally, several complaints contained major risk management issues that do not appear to have been addressed. While some of these shortcomings may be due to a lack of documentation there is no way to make that determination with any degree of confidence.

### **Objective 4: Risk Management Issues**

*Antelope Valley supervisors and commanders shall take appropriate action to address all violations or deficiencies in stops, searches, and seizures including non-disciplinary corrective action for the involved deputy, and/or referring the incident for disciplinary action (161).*

In addition to adjudicating the allegations in each complaint, effective management review requires that significant non-allegation issues be identified and resolved. There is no documentation that the following issues were identified or addressed during the management review of these complaints.

#### Objective 4.1: Protocol for Allegations of Racial Profiling

There was one complaint alleging racial profiling (L-19). The investigation essentially consisted of the investigator asking the deputy if he profiled the complainant, and the deputy saying he did not. This caused us to inquire if the Department had a protocol for conducting profiling investigations. We were informed they do not.

**Recommendation 16: The Department should establish a protocol for the investigation of racial profiling complaints. Factors such as the accused deputy's history of conducting discretionary stops and community demographics are just a few of the factors that should be included.**

#### Objective 4.2: Searching Female Detainees

There were three cases in which a lone male deputy used various techniques to determine if a female detainee had narcotics secreted on her person.

- *L-2.* A female suspect was in custody for narcotics sales. The deputy who was alone with her in the police car had her pull on her clothing to see if any narcotics fell out.
- *P-8.* The complainant alleges the deputy searched her clothing and put his hand down her pants far enough to touch her pubic hairs. She did not perceive this as sexual, more to see if she had any contraband. The deputy states he held her hands behind her back with one hand and with the other searched the pockets of her sweatshirt, grasped the bottom of her shirt and pulled it up slightly to view her waistband, and pulled the top of her pants pocket open to see what was causing that pocket to bulge. His statement focused almost exclusively on searching for narcotics rather than weapons.



- *P-24.* After placing the complainant in the back seat of the patrol car “for safety reasons and to further investigate” the complainant, the deputy approached the female passenger “to pursue his search for the source of the burnt marijuana odor.” She consented to the search, which the deputy says only involved searching the exterior pockets of her jean jacket as she held it away from her body. The complainant became argumentative, so the deputy called for a supervisor. The supervisor talked to the woman and then let her drive away in the car. The supervisor was not interviewed for this complaint, and the complainant’s and the woman’s summarized statements for the investigation were vague as to what they said the deputy actually did in searching the woman.

These three cases appear to be inconsistent with Department policy for male deputies searching female detainees, which appears limited to officer-safety situations.<sup>15</sup> There was no documentation in any of these cases that a female deputy was unavailable. While the investigations and adjudications address the allegation of improper stop/search/arrest, none of the cases addressed the way in which the male deputies allegedly searched the female detainees.

**Recommendation 17: The Department needs to review its policy and training governing a deputy searching a detainee of the opposite sex when the detainee does not pose a threat.**

#### Objective 4.3: Body Cameras

There were two cases in which the deputy’s access to a body camera provided indisputable evidence that the allegations did not occur (P-4 and P-26).

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<sup>15</sup> MPP 3-01/110.30 Cursory (Pat-Down) Searches in the Field and in Custody Situations.

#### Objective 4.4: Major Tactical Incident

One case involved a major tactical issue that well could have resulted in a deputy-involved shooting (L-13). In that case, the desk deputy received a PLE for failure to include the knife in the call information. But there was no discussion of the desk deputy telling the woman to exit the house apparently without communicating to the deputy at scene that she was coming out. That decision should have been made by the at-scene deputy, not the desk deputy. This deserved much more corrective action than is documented in the report.

#### Objective 4.5: Supervision

There were two cases in which the field supervisor's actions raised concerns.

- *L-16.* With several deputies in the immediate area, several of whom were dealing with the complainant, a field sergeant decided to intervene and personally arrest the complainant. This was not addressed in the adjudication.
- *L-20.* There were two sergeants at the scene of a high-profile detention with significant probability of creating substantial concern in the community. Yet, the two deputies involved did not create an incident report documenting what occurred. The lieutenant investigating the complaint was critical of the deputies for that failure, but there is no documentation the supervisors were asked why they did not make sure the incident was documented.

#### Objective 4.6: Allegation of Widespread Violation of Department Policy

During his interview for the complaint investigation L-20, one of the accused deputies claims there is rampant violation of the Department's Reportable Use of Force Policy, particularly when applying handcuffs. While we recognize that "everybody does it" is often offered as an excuse, there is no documentation of any follow-up to determine if the deputy's statement is

accurate or if training was provided to ensure that everyone understands Department expectations in that critical area.

#### Objective 4.7: Timely Preliminary Data Entry

To ensure complaints are recorded and tracked, the Department requires commands to do a Preliminary Data Entry (PDE) into PRMS. The system is supposed to issue a receipt, but that has not been working for some time. Stations are supposed to obtain a “screen shot” of the PDE and include it in the investigation. While all of Palmdale’s complaints included a screen shot, only two of Lancaster’s complaints did so, and those were both complaints initiated by IAB.

#### Monitor’s Finding Objective 4: Risk Management Issues

The Department is *not* in compliance with the SA’s requirement for effective management oversight regarding the identification and resolution of critical risk management issues that are brought to light during the investigation of public complaints. It is quite possible that some or all of these risk-management issues were addressed in another forum. However, the documentation we received for each case—the same documentation a judge or anyone else would receive if they requested the official record for these complaints—did not contain any record that these issues were identified and corrective action initiated.

#### **Objective 5: Recordation of Complaints**

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

## Monitor Activity

The results of the WCSCR investigation are recorded on the Result of Service Comment Review form (Addendum No. 2). A variety of dispositions are available, and the appropriate box(es) is checked and attachments noted. The form is then approved by the Unit and Division commanding officers and forwarded to the Discovery Unit for data input.

### Objective 5.1: Result of Service Comment Review

For the most part, the Service Comment Review forms accurately reflected the adjudications that were made. (Shortcomings in those dispositions are addressed elsewhere.) That held true as long as the form reported on one allegation against one deputy with one disposition. But the form was consistently inaccurate when multiple deputies and multiple allegations and multiple dispositions were involved. For example:

- *L-13.* This complaint involved an allegation of Improper Detention, Search, or Arrest against three deputies. During the investigation, it was discovered that a deputy failed to include important information in the call. The Improper Detention allegation was found to be Reasonable for the three deputies at scene. But for the deputy who failed to include the information, the classification was Could Have Been Better. PRMS incorrectly shows the disposition for all four deputies as Could Have Been Better, and the allegation for the deputy who left the information out as Improper Detention, Search, or Arrest rather than Neglect of Duty.
- *L-14.* Five deputies served a search warrant at a residence. The complaint alleged Improper Detention, Search, or Arrest for four of the deputies and an additional allegation of discourtesy against the fifth. The adjudication found the actions of three of the deputies, including the deputy accused of discourtesy, to be Reasonable; but the conduct of the remaining two deputies Could Have Been Better. The PRMS printout shows that both allegations were made against all five deputies and the disposition for all five was Could Have Been Better.

- L-21. The complaint alleged NOD against three deputies and discourtesy/NOD (failing to take a complaint) against a sergeant. The complaint was classified as Reasonable for all four people. The deputies were not accused of discourtesy, however, only NOD, which was proven to be unfounded. This is another example of the WCSCR form's inability to distinguish which allegation(s) goes with which deputy.

We could cite several more examples of the incorrect allegations, dispositions, and deputies that were cited in complex adjudications. This is NOT a criticism of the commands or their staff, but it is a criticism of the form itself. The form was not designed to capture complex cases, and it does an inadequate job in that area. Unfortunately, that results in inaccurate data being entered into PRMS.

**Recommendation 18: The Department needs to revise the WCSCR forms to ensure they capture accurate data from the simplest to the most complex cases.**

#### Objective 5.2: Accuracy of Data Entry Into PRMS

The Discovery Unit's data entry into PRMS was for the most part extremely accurate. That is no small feat given the volume of data they are required to enter. This is not to imply that the data itself was accurate, only that they accurately entered the data they were given.

**Significant Finding 7: The Discovery Unit is to be commended for the accurate entry of data into PRMS. This is no small accomplishment given the volume of data they enter.**

#### Objective 5.3: Timely Entry Into PRMS

After the Division Commanding Officer (C/O) approves the report it is forwarded to the Discovery Unit for data input into PRMS.

- There is a box on the Service Comment Review form for the Discovery Unit to write the date they received the report. That box was not filled out on any of the forms reviewed for this audit.
- Right below the date-received box is another indicating the date reviewed. Because the received date was not entered, auditors used the date the Division C/O approved as the approximate date the complaint was forwarded to Discovery. From that we calculated that WCSCRs were at Discovery for seven months before they were “reviewed.” Compliance Unit staff is researching the review process to determine ways to expedite that process.

**Recommendation 19: The Department needs to evaluate the process Discovery uses to review and input WCSCRs and then implement a process that results in much more timely data entry into PRMS.**

Monitor’s Finding Objective 5: Recording Complaints in PRMS

The Department is *not* in compliance with the SA requirements for capturing and entering accurate data into PRMS. Allegations were not accurately captured on the WCSCR and Service Comment Review forms especially when the complaint involved multiple deputies with multiple allegations and multiple dispositions.

**Objective 6: Retention of Complaints**

*LASD will . . . ensure that all personnel allegations are accurately classified at all investigative stages, from intake through resolution, so that each allegation receives the appropriate level of review required under policy (§1127).*

*LASD will ensure that personnel complaints are not misclassified as service complaints (§1128).*

## Monitor Activity

As this is the Monitoring Team's first audit of the Department's complaint process, a review of that process would not be complete if we did not review the way in which public complaints are retained, produced for court, and reported to the California Department of Justice (CA DOJ). The MT obtained much of this information from the Chief in charge of the Department's Professional Standards Division (PSD), whose insight and patient explanations were greatly appreciated.

### Objective 6.1: Retention of Complaints

All personnel investigations, both WCSCRs and Administrative Investigations, are forwarded to the Discovery Unit for data input and scanning. After the report and all addenda, including electronic attachments (recordings, etc.), are scanned, original WCSCR reports are retained either at Discovery or in the Department's records warehouse until they are destroyed (shredded) on a revolving five-year basis. For many years, original Administrative Investigations were also destroyed (shredded) on a revolving five-year basis. But in 1993, in response to a recommendation from the Kolts Commission, that process was abandoned. Once the original investigation and all addenda are scanned, the original is retained at IAB for several years. When IAB's records storage space is full, older records are sent to the warehouse for retention. The goal is to send records for destruction (shred) on a seven-year rotation, but the scanning and shredding processes are both backed up. Staff is now in the process of scanning paper files from 1995 forward, which they do for about an hour each day, then sending the scanned files for shredding. The electronic copy of both Administrative Investigations and WCSCR reports is

retained indefinitely on two separate servers in two different locations. That redundancy is designed to ensure records are retrievable in case of natural disaster.

Section 832.5(b) of the Penal Code establishes a minimum retention period of five years for Personnel Complaints investigated by California's law enforcement agencies. The agency is allowed to destroy the original records after that. Most agencies provide public notice of their intent to destroy these records by including them in their city or county's Records Retention Schedule.

The Los Angeles County Board of Supervisors adopted its most recent Records Retention Schedule on June 14, 2016. Records maintained by the Department are listed in that schedule. Specifically, the Schedule shows a two-year retention period for Watch Commander Service Comment Reports, which the Schedule describes as:

*Contains tracking information for non-criminal occurrences detailed in watch commander service comment reports. Includes: Comments received from the public, corresponding investigations, complaint log, tracking reports, administrative documents, and audio/video files.*

The Schedule also identified the retention period for Internal Affairs Investigation Case Files as "Permanent," citing California Penal Code Section 832.5(b) as the authority for that retention period. The schedule describes IAB case files as:

*Contains all records relating to administrative and criminal investigations, includes: Low-level and significant use of force documentation, police reports, traffic accidents, supervisory inquiries, internal complaints, public complaints, interviews, audio recordings, video recordings and photographs.*



As IAB never receives a WCSCR report unless it is elevated to an Administrative Investigation, this schedule appears to authorize the destruction of a WCSCR after two years even if it documents a Personnel Complaint. That conflicts with the Penal Code's minimum five-year retention period. The Chief of PSD clarified this seeming inconsistency, informing us that "the documents are retained for five years; the two years listed in the schedule is a misstatement, which will be corrected in future schedules. Additionally, the documents are kept permanently on the servers."

**Significant Finding 8: The Department's Records Retention Schedule incorrectly describes the nature of a WCSCR and authorizes the destruction of those records after two years rather than five years as required by law.**

#### Objective 6.2: Production of Complaints

The Discovery Unit is the Custodian of Records for Personnel Complaints. A representative from that Unit appears in court in response to *Pitchess* or *Brady* motions. While each court order is unique, the general process is for the representative to appear with the employee's PRMS Profile Report (complete history) which includes:

- Administrative Investigations;
- WCSCR Complaints;
- Preventable Traffic Collisions;
- Civil Claims;
- Civil Lawsuits;
- Use of Force;
- WCSCR Commendations; and,
- Employee Commendations.

If PRMS shows a matter as pending, the word “pending” appears. (The lengthy delay in data entry cited in Objective 6 above would cause WCSCRs to be shown as “pending” seven to eight months after the Division Chief has made the final adjudication.)

The representative also brings all Administrative Investigations, WCSCRs, and inmate complaints for the past five years to the hearing. If the case has been completed, the entire case is brought; but if it is incomplete, a synopsis from PRMS is provided. The judge reviews the complaints and investigations and orders the disclosure of any complaints or investigations he/she believes may be relevant. The representative then provides copies of the material ordered by the court to Department attorneys, who review the materials and forward them to the attorney who brought the motion.

(We already recommended that the Department address the lengthy delay in data entry.)

### Objective 6.3: Reporting Complaints to CA DOJ

Effective January 1, 2016, all California law enforcement agencies are required to report citizen complaints to the State’s Department of Justice pursuant to Penal Code Section 13012. The DOJ is then required to publish that information, referred to as Citizens’ Complaints Against Peace Officers, on its Open Justice Web portal. The DOJ has published an Information Bulletin with the reporting requirements and issued a form for agencies to report those complaints.

The disposition terms used by the State (Sustained, Not Sustained, Exonerated, and Unfounded) are different from the disposition terms used by the Department for the disposition of public complaints reported on an SC Review. They are similar to the terms the Department uses for the disposition of internal (administrative) investigations. Auditors asked how this

discrepancy was addressed so the Department met its legal obligation to report citizen complaints to the State. The Chief of PSD informed us that the numbers reported by the Department only reflect complaints that have resulted in a formal internal (administrative) investigation. The Department informs the State of this difference and includes a brief explanation about the protocol for adjudicating public complaints. This seems to conflict with the mandated reporting requirements.

**Recommendation 20: The Department needs to comply with the requirement that law enforcement agencies report citizen complaints to the State Department of Justice pursuant to Penal Code Section 13012.**

Monitor's Finding Objective 6: Retention and Production of Complaints

While the Department's Records Retention Schedule needs to be corrected to bring it into compliance with California's Public Records Act, and the Department needs to decide if it will continue to underreport citizen complaints to the Department of Justice pursuant to section 13012 of the Penal Code, those two issues do not appear to affect any of the SA provisions.

**Objective 7: LASD Audits**

*LASD shall conduct a semiannual, randomized audit of LASD-AV's complaint intake, classification, and investigations. This audit will assess whether complaints are accepted and classified consistent with policy, investigations are complete, and complaint dispositions are consistent with a preponderance of the evidence (¶140).*

## Monitor Activity

As we noted in our fourth Six-Month Report, the Department's Audit and Accountability Bureau (AAB) has published several audits that cite various SA paragraphs, but it has not performed any of the audits required for evaluating the Department's compliance with SA requirements for accepting, investigating, adjudicating, and retaining public complaints made by members of the Antelope Valley community.

## Monitor's Finding Objective 7: LASD Auditing of Complaints

The Department is *not* in compliance with the complaint paragraphs and will remain so until it submits the specifically related audits, along with the associated audit work papers. Those audits must ultimately indicate that compliance has been achieved and sustained for at least 12 months.

### **Objective 8: Unaddressed Complaint Paragraphs**

*LASD will revise policies to clarify and strengthen requirements related to:*

- a. *which allegations . . . require imposition of discipline, as opposed to non-disciplinary action, to address the misconduct;*
- b. *what types of personnel complaints must be investigated as administrative investigations rather than handled exclusively as Service Comment Reviews; and,*
- c. *what types of administrative investigations must be handled by IAB rather than at the unit level (§1129).*

*[PRMS] will continue to serve as an LASD-wide decision support system in matters related to risk management and service reviews (§1141).*

*LASD will modify its procedure for Performance Log Entries so that all entries are maintained in an electronic format and noted in [PRMS] (§1142a).*

### Monitor Activity

Work on paragraphs 129 and 142a is in progress; they do not lend themselves to auditing at this time. Paragraph 141 will be included in the MT's audit of management oversight.

### Monitor's Finding Objective 8: Policy and Procedure Revision and Alignment

The Monitor makes no finding at this time on the paragraphs requiring the Department to revise and align its policies, rules and procedures governing the intake, investigation, adjudication and retention of public complaints.

## **XII. CONCLUSION**

The Settlement Agreement's provisions for the intake, investigation, and adjudication of public complaints are critical factors to instill public confidence in the Department and protect its integrity. Those complaints must be thoroughly investigated, thoughtfully adjudicated, and retained in a manner that allows supervisors and managers to identify patterns and intervene before they become a crisis. In many respects, the Department's handling of public complaints achieves those goals, but in others it does not. We trust that the issues raised in this audit will be addressed and the process for addressing complaints by the Antelope Valley community improved.

## **Addendum No. 1: Summary of Recommendations**

1. To comply with the SA, the Department needs to revise its policy for handling complaints of misconduct that arise during a use-of-force investigation so that each complaint is investigated, adjudicated, and recorded in PRMS.
2. The Department needs to reconsider its practice of having Lieutenant Watch Commanders investigate minor allegations of misconduct such as discourtesy while field sergeants investigate higher-risk allegations of excessive or unnecessary use of force.
3. The Department should revise its Personnel Complaint classifications to comport with California law.
4. The Department needs to determine why this complaint (P-28) did not appear in the list of AV complaints obtained from PRMS.
5. The Department should review this case (WC Log 3) and provide additional training to supervisors on the need to identify, collect and consider all evidence related to a Personnel Complaint.
6. The Department needs to ensure that complaint forms and informational materials are not only on display but clearly visible in the public areas of each AV station.
7. The Department needs to implement a system that ensures complaint material is on display and remains on display at the designated facilities.
8. The Department needs to ensure the method(s) it provides on its website for the public to make a complaint works, is monitored regularly, and results in timely action.
9. The Department should ensure that complaint information is available on every command's individual website.
10. The Department's Manual of Policies and Procedures needs to clearly state its expectations regarding supervisory notification and intake of complaints.
11. The Service Comment Report should be modified to capture allegations of discouraging or inhibiting complaints.
12. To comply with the SA, the Department needs to establish a process to record its handling of community complaints that do not result the initiation of a WCSCR.
13. The Department should consider requiring field supervisors to complete a narrative log to record their supervisory activities during each shift.

14. The Department should separate the investigation from the adjudication of critical events such as public complaints and uses of force.
15. Every complaint classified as Could Have Been Better or Should Have Been Different should have a section discussing the employee's work history to document the rationale for issuing or not issuing a PLE.
16. The Department should establish a protocol for the investigation of racial profiling complaints. Factors such as the accused deputy's history of conducting discretionary stops and community demographics are just a few of the factors that should be included.
17. The Department needs to review its policy and training governing a deputy searching a detainee of the opposite sex when the detainee does not pose a threat.
18. The Department needs to revise the WCSCR forms to ensure they capture accurate data from the simplest to the most complex cases.
19. The Department needs to evaluate the process Discovery uses to review and input WCSCRs and then implement a process that results in much more timely data entry into PRMS.
20. The Department needs to comply with the requirement that law enforcement agencies report citizen complaints to the State Department of Justice pursuant to Penal Code Section 13012.

## **Addendum No. 2: Summary of Significant Findings**

1. None of the complaints in the audit sample contained any issue even remotely connected to Section 8 housing (§73 through §80).
2. None of the complaints in the audit sample contained any allegation pertaining to the drawing or exhibition of a firearm (§152)
3. The Department's current policy for handling allegations of misconduct that arise from a use of force is not in compliance with SA §127, §130, and §142, which require that each allegation be accurately identified and classified from intake through resolution, that Unit Commanders adjudicate each allegation, and that each allegation be entered accurately into PRMS.
4. The investigator for this case (P-21) is to be commended for conducting a diligent investigation.
5. The investigator for this case (P-10) is to be commended for conducting a diligent investigation.
6. The Department's criteria for reporting use of force can confuse even veteran staff and command officers. This will be addressed in greater detail in the Monitoring Team's Use of Force audit, which is now underway.
7. The Discovery Unit is to be commended for the accurate entry of data into PRMS. This is no small accomplishment given the volume of data they enter.
8. The Department's Records Retention Schedule incorrectly describes the nature of a WCSCR and authorizes the destruction of those records after two years rather than five years, as required by law.



## Addendum No. 3: Watch Commander Service Comment Form

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT  
WATCH COMMANDER'S SERVICE COMMENT REPORT

248051

|  |  |   |   |   |
|--|--|---|---|---|
| Receiving Bur/Stn/Fac:   |  | Report Date:  | Time:   | SC #:   |
| Investigating Bur/Stn/Fac:   |  | URN #:  | IAB #:  |   |
| <b>Received By</b>   | <b>Commendation</b>  | <b>Personnel Complaint</b>  |   | <b>Service Complaint</b>  |
| <input type="checkbox"/> Mail<br><input type="checkbox"/> In Person<br><input type="checkbox"/> Telephone<br><input type="checkbox"/> 800 Line<br><input type="checkbox"/> E-Mail/Fax<br><input type="checkbox"/> Website                          | <input type="checkbox"/> Application to Duties<br><input type="checkbox"/> Commendable Restraint<br><input type="checkbox"/> Exemplary Conduct<br><input type="checkbox"/> Tactical Excellence | <input type="checkbox"/> Criminal Conduct (All copies to Unit Cmdr)<br><input type="checkbox"/> Discourtesy<br><input type="checkbox"/> Dishonesty<br><input type="checkbox"/> Force<br><input type="checkbox"/> Improper Tactics<br><input type="checkbox"/> Improper Detention, Search, or Arrest | <input type="checkbox"/> Neglect of Duty<br><input type="checkbox"/> Operation of Vehicles<br><input type="checkbox"/> Off Duty Conduct<br><input type="checkbox"/> Harassment<br><input type="checkbox"/> Discrimination<br><input type="checkbox"/> Other | <input type="checkbox"/> Policy/Procedures<br><input type="checkbox"/> Response Time<br><input type="checkbox"/> Traffic Citation<br><input type="checkbox"/> Other |
| <b>Reporting Party Information</b> <span style="float: right;">Recording of Contact with Reporting Party Submitted Yes <input type="checkbox"/> No <input type="checkbox"/></span>   |  |   |   |   |
| Last Name:   |  | First Name:   | MI:   | Sex:  |
| Residence:   |  | City:   | State:  | Zip:  |
| Home Phone:  |  | Work Phone:   | Cell Phone:   |   |
| Home E-Mail Address:   |  | Work E-Mail Address:  |   |   |
| Third Party: Yes <input type="checkbox"/> No <input type="checkbox"/>  |  | Present at Incident: Yes <input type="checkbox"/> No <input type="checkbox"/>   |   |   |
| Has any member of this Department attempted to discourage you in any way from bringing this matter to the attention of the Department?<br>If Yes, Who? <span style="float: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></span> |  |   |   |   |
| <b>Involved Party Information (If not Reporting Party)</b>   |  |   |   |   |
| Last Name:   |  | First Name:   | MI:   | Sex:  |
| Residence:   |  | City:   | State:  | Zip:  |
| Home Phone:  |  | Work Phone:   | Cell Phone:   |   |
| Home E-Mail Address:   |  | Work E-Mail Address:  |   |   |
| <b>Contact/Event Information</b>   |  |   |   |   |
| Date:  | Time:  | City or Station Area:   |   | RD:   |
| Location/Address:  |  |   |   |   |
| Synopsis of Contact/Event:   |  |   |   |   |
| <input type="checkbox"/> See Attached  |  |   |   |   |
| Was a Supervisor Present? Yes <input type="checkbox"/> No <input type="checkbox"/>   | Last Name:   |   | First Name:   | MI:   |
|  | Rank:  |   | Employee #:   |   |
| <b>Witness Information</b>   |  |   |   |   |
| Last Name:   |  | First Name:   | MI:   | Race:   |
| Residence:   |  | City:   | State:  | Zip:  |
| Home Phone:  |  | Work Phone:   |   | Cell Phone:   |
| Home E-Mail Address:   |  | Work E-Mail Address:  |   |   |
| <b>Involved Employee Information</b>   |  |   |   |   |
| Last Name:   |  | First Name:   | MI:   | Work Phone:   |
| Employee #:  | Unit of Assignment:  | Work Assignment (Unit #, Module, etc):  |   | Height: Weight:   |
|  |  | <input type="checkbox"/> EM Shift   | <input type="checkbox"/> Day Shift  | <input type="checkbox"/> PM Shift   |
|  |  | <input type="checkbox"/> Regular Shift  | <input type="checkbox"/> O.T. Shift   | <input type="checkbox"/> Off Duty   |
| Last Name:   |  | First Name:   | MI:   | Work Phone:   |
| Employee #:  | Unit of Assignment:  | Work Assignment (Unit #, Module, etc):  |   | Height: Weight:   |
|  |  | <input type="checkbox"/> EM Shift   | <input type="checkbox"/> Day Shift  | <input type="checkbox"/> PM Shift   |
|  |  | <input type="checkbox"/> Regular Shift  | <input type="checkbox"/> O.T. Shift   | <input type="checkbox"/> Off Duty   |
| <b>Employee Witness Information</b>  |  |   |   |   |
| Last Name:   |  | First Name:   | MI:   | Employee #:   |
| Last Name:   |  | First Name:   | MI:   | Employee #:   |
| <b>Watch Commander (Person Completing Report)</b>  |  |   |   |   |
| Print Full Name:   |  | Employee #:   | Signature:  |   |
| Distribution   |  |   |   |   |

White - LTD Hdqtrs

Canary - Unit Commander

Pink - Division Hdqtrs

Green - Reporting Party

