

June 18, 2020

Reform Recommendations of the Civilian Oversight Commission

To: Patti Giggans, Chair, Sheriff Civilian Oversight Commission

From: Rob Bonner for the Ad Hoc Committee re Use of Force ⁱ

The Ad Hoc Committee has met and proposes that the full Commission adopt the reform recommendations set forth below. All the recommendations are doable, and most can be done immediately. This list of reforms is not intended to be exhaustive.

RECOMMENDED REFORMS FOR LASDⁱⁱ:

1. *Immediately* assure that Use of Force policy clearly and unequivocally prohibits chokeholds and other restraints on the carotid artery by whatever means and assure that this prohibition is immediately made part of Deputy training.ⁱⁱⁱ
2. *Immediately* make clear in policy that a deputy witnessing excessive or unnecessary force being used by another deputy has an affirmative duty to intervene and attempt to stop such use of force.^{iv}
3. *Immediately* require de-escalation before resort to use of lethal force.
4. *Immediately* fund and deploy Body Worn Cameras to all Patrol deputies.^v
5. *Immediately* fund and complete the full rollout of Mental Health Evaluation (MET) teams.^{vi}
6. *Immediately* require not just tracking of deputy complaints and discipline, but documented management action, especially where there is a history of potentially unnecessary and/or excessive uses of force.
7. *Immediately* provide the Office of Inspector General and the Civilian Oversight Commission with unfettered access to proposed policies, internal and disciplinary processes, investigations and decisions, including deputies' record of complaints, including complaints regarding the use of excessive force and sexual misconduct, and disciplinary record, including briefs of the COC's Ad Hoc Committee on the Use of Force at the earliest opportunity after lethal force has been used.
8. Henceforth, all lethal uses of force by deputies should be investigated by an independent agency. In this regard, the Office of Inspector General should be designated the primary investigative agency for all lethal uses of force.^{vii}
9. Without further delay, the LASD should comply with Penal Code 832.7(b), effective January 2019, codifying SB 1421.

10. Modify collective bargaining agreements and Civil Service rules to make it easier to terminate deputies who have used unnecessary or excessive force, have a history of doing so, failed to take action to prevent same, or have misled or concealed from investigators such conduct on the part of other deputies.
11. Assure that the Table of Discipline provides for termination of any deputy determined to have used unnecessary, excessive or out-of-policy use of force and similarly for any deputy who takes no action to prevent it, and/or does not promptly or accurately report same.
12. Amend laws and regulations to permit prompt termination and/or putting a deputy on leave without pay in cases where excessive use of force is apparent.
13. Without delay, through policy, training and example, begin to develop a culture within the LASD where all members of the community are treated with dignity and respect.
14. Encourage the Sheriff to embrace the foregoing reforms and establish a working group to work with the Civilian Oversight Commission to accomplish Recommendations 1-13, above, as expeditiously as possible.

OTHER RECOMMENDATIONS:

15. Remove qualified immunity for law enforcement personnel, who have intentionally violated the constitutional rights of citizens, in federal civil rights suits.
16. Recommend that the U.S. Justice Department re-instate its investigation, oversight and mandated reforms of law enforcement organizations who have a history or pattern of use of excessive force or racial bias.
17. Encourage District Attorneys to become more aggressive in prosecuting law enforcement officers where the facts indicate criminal culpability.
18. Encourage U.S. Attorneys to collaborate and institute parallel investigations where lethal force appears to be excessive or unnecessary.

ⁱ The Ad Hoc Committee re Use of Force is made up of Commissioners Kennedy, Thompson, Harris and Bonner.

ⁱⁱ As amended by the full Commission on June 18, 2020 during the Commission meeting.

ⁱⁱⁱ On June 8, 2020, the LASD amended its *Custody* Division Manual to prohibit “Any choke holds including carotid restraints (June 8, 2020).” *Custody* Division Manual 7-01/030.00 (November 2015), Importantly, our Recommendation No. 1 requires that there be a prohibition of choke holds and other carotid artery restraints that applies to deputies assigned to the LASD’s *Patrol* Division.

^{iv} This is currently required for deputies and custody assistants working in the LA County Jail system. *Custody* Division Manual 7-01/010.00 (January 2017). Our Recommendation No. 2 makes clear that this duty also applies to *Patrol* deputies.

^v As per the recommendation of the COC in its July 2018 report on Body Worn Cameras.

^{vi} As per the recommendations of the COC in its February 2018 report on The Mental Evaluation Team Program. The COC recommended 60 MET Teams. So far, only 34 MET Teams have been deployed.

^{vii} To assure accountability and avoid actual and perceived conflicts of interest, it is highly desirable and unquestionably the best practice to have an independent, outside agency investigate lethal uses of force. See, generally, *At Arm's Length: Improving Criminal Investigations of Police Shootings*. Stanford Criminal Justice Center, <https://law.stanford.edu/publications/at-arms-length-improving-criminal-investigations-of-police-shootings/><https://law.stanford.edu/publications/at-arms-length-improving-criminal-investigations-of-police-shootings/> All members of the Ad Hoc Committee favor having an outside, independent agency be the lead or primary investigative agency where fatal force is used. The Ad Hoc Committee considered recommending that such outside investigations be undertaken by the California Department of Justice (DOJ) or the San Joaquin model where other local law enforcement agencies not involved in the fatal use of force conduct the investigation. At least one member of the Ad Hoc Committee would favor having the California DOJ rather than the OIG be the lead on such investigations. Another member favors the OIG being designated the lead agency until such time as the California Department of Justice is given the responsibility for investigating all fatal uses of force by California law enforcement agencies.