



**PUBLIC REQUEST TO ADDRESS
THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, CALIFORNIA**

MEMBERS OF THE BOARD

HILDA L. SOLIS
HOLLY J. MITCHELL
LINDSEY P. HORVATH
JANICE HAHN
KATHRYN BARGER

Correspondence Received

The following individuals submitted comments on agenda item:				
Agenda #	Relate To	Position	Name	Comments
66.		Favor	Melissa Camacho	See two attached letters
		Item Total	1	
Grand Total			1	

August 5, 2024

Via e-mail
Members of the Los Angeles County Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Re: Report on Compliance with the *Rosas* agreement, Item 66

Honorable Members of the Los Angeles County Board of Supervisors:

We appreciate Supervisor Horvath's decision to hold the semi-annual *Rosas* report for discussion. We remain deeply concerned that the Los Angeles Sheriff's Department (LASD) dramatically understates the number of force incidents involving violations of use of force policies. The LASD report, attached to Item 66, reports only ten founded use of force policy violations in the first semester of 2023 (slide 7) out of 356 use of force incidents (slide 8)¹. LASD's report, however, fails to acknowledge that the Department finds use of force incidents out of policy at a vastly lower rate than the court-appointed monitors in *Rosas*. The true number of out-of-policy use of force incidents is much higher than ten. If the Board wants to come into compliance with *Rosas* provisions and ultimately resolve *Rosas*, the Board must pressure LASD to (1) regularly report on the gap between LASD's out-of-policy findings and the panel's out-of-policy findings, and (2) close that gap through changed behavior and increasing accountability.

In a letter to the Board dated May 15th, 2024, attached here and submitted as an additional public comment, we wrote to the Board of Supervisors raising our concerns about the Department's failure to identify out-of-policy uses of force. In the 13th report, which covers the same period as the LASD *Rosas* report attached to item 66, the Panel reviewed 50 cases and found that 34 cases (68%) violated at least one use of force provision. Yet the *Rosas* report LASD presented to the Board in item 66 identifies only 10 founded use of force violations out of 356 use of force incidents (2.8%). The Panel also reviewed 22 cases involving head strikes and found 17 of those cases violated the head strike policy. Panel's 13th Report at 3-4. By contrast, LASD found only 2 of those 22 cases out of policy. It is troubling that LASD has already met with the Panel, read the 13th report and yet reports to the Board only the low number of violations found by the Department. Their report fails to address or even acknowledge that the true number of out-of-policy use of force incidents is much higher than ten.

At the July 10, 2024 Public Safety Cluster meeting, several Justice Deputies asked Chief Macias to explain the reason for the gap between LASD's findings and the Panel's findings and explain

¹ LASD reported a higher number of use of force incidents to the Panel for their use in the 13th Report. LASD reported 384 incidents to the panel. 13th Report at 3. The *Rosas* report attached to item 66, however, reports only 356. *Rosas* Report Slide 7. We do not see any reason the two numbers should be different and recommend asking LASD to explain the discrepancy.

how the Department plans to close the gap. Chief Macias first explained that the time period of the 13th Report and the out-of-policy findings do not perfectly overlap. The use of force cases in the 13th report were completed – meaning the final commander evaluation was complete -- between January and June 2023. The 10 cases on slide 7 of the *Rosas* report were completed – meaning the Department gave an “imposition letter” to the person being disciplined -- between January and June 2023. The onus should be on the Department, however, to provide numbers that correlate exactly with the findings of the *Rosas* panel. Moreover, there is nothing to indicate that there is a significant difference between the timing of the final Commander review and the date of any imposition letter.

The other reason given for the gap, however, should give this Board pause. Chief Macias largely attributed the gap between the Panel’s findings and the Department’s findings to a lack of clarity from deputies when writing incident reports. Chief Macias said that deputies sometimes fail to accurately report incidents or use the correct vocabulary to describe uses of force. Better documentation, according to Chief Macias, will close the gap. Not so. The Panel’s report does not identify problems with documentation or clarity in reporting. The Panel consistently finds personnel using force in ways that violate policy by looking at video and seeing, for example, deputies striking handcuffed people in the head or going “hands on” without calling for a supervisor. Better report writing by deputies will not solve this problem. The Department must acknowledge that personnel have to change their behavior, accurately identify out-of-policy actions, and impose appropriate discipline.

When asked how the Department plans to close the gap between the Panel’s findings and the Department’s, Chief Macias pointed to the rollout of the new Custody Force Investigation Team (CFIT). CFIT, however, is made up of specially trained sergeants. It does not address the problem of Commanders failing to identify violations of use of force policies. The OIG recently identified [two cases](#) that were clearly captured on video, in which LASD personnel punched incarcerated people in the head outside of policy. Yet the Custody Force Review Committee (made up of three of the six LASD Commanders in Custody Operations) refused to find the force out of policy. In one case, a deputy punched a man in the head while that man was lying down on a gurney with his hands cuffed behind his back. In the other case, a man spat on a deputy, who immediately responded by punching him in the face. In both cases, the first line of review (comprising sergeants) found the head punches out of policy, but the Commanders on the CFRC overruled them. As the OIG notes, LASD will not be able to stop head punches if Commanders refuse to find incidents out of policy and even overrule people with lower ranks who are trying to evaluate uses of force fairly and accurately. LASD has not articulated any plan to address the problem of Commanders who refuse to find uses of force out of policy and even overrule sergeants’ out-of-policy findings.

On February 28, 2023, this Board unanimously passed a motion, authored by Supervisor Barger, titled “[Consent Decrees: Achieving Compliance](#).” The motion listed several consent decrees, including *Rosas v. Luna*, CV-12-428-DDP, and noted that they are “expensive and challenging” and create “reporting and monitoring costs that may hamper County efforts to proactively and affirmatively help the same vulnerable populations that the Consent Decrees are designed to achieve.” The motion offered “no excuse[s] for non-compliance or for delays in achieving

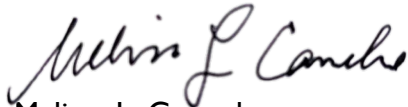
compliance” and asked the Department for “exit strategies to enable the county to achieve compliance.”

The only “exit strategy” in *Rosas* is for the Department to align its out-of-policy findings with the Panel’s findings. The Department must report on the gap between its findings and the Panel’s findings and show this Board that it is rapidly closing that gap. The gap will not close unless and until the Department commits to changing behavior – not just reporting or processes – and imposing discipline when Department personnel use unreasonable force or fail to appropriately identify out-of-policy uses of force. As the Panel stated in its most recent report to the Court, “[T]he Department must hold deputies accountable for use of force violations *and hold supervisory staff accountable when they fail to identify and appropriately address violations.*”² 13th Report at 3, emphasis added.

Sincerely,



Peter Eliasberg
Chief Counsel



Melissa L. Camacho
Senior Staff Attorney

² Similarly, in its penultimate report to the Court, the Panel warned, “[i]n order to reach compliance with Provision 2.6 (head strikes), staff must be held accountable for impermissible head strikes.” 12th Report at 4.



May 24, 2024

Honorable Members of the Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Re: Sheriff's Department Lack of Accountability for Improper Uses of Force in County Jails

Honorable Members of the Board of Supervisors:

On November 15, 2023 we wrote you a letter about the Los Angeles Sheriff's Department (LASD) compliance with the court-enforceable settlement agreement in *Rosas v. Luna*, Case No. 12-cv-00428, a federal court class action addressing systemic excessive force by Sheriff's personnel against detainees in the County jails. We expressed significant concerns that that LASD dramatically understates the number of force incidents that involved violations of use of force policies and dishonest reporting because supervisors fail to identify clear violations of policies in their review of uses of force. Our concerns were based on the fact that the court-appointed panel of three monitors ("the Panel")¹ in the *Rosas* case find policy violations about 15 times as often as the Sheriff's Department does in its self-reporting, strongly suggesting a severe and systemic lack of accountability in the LASD's review of use of force incidents. Our November letter was based on the Monitors' 12th report to the federal court in *Rosas*, which the Monitors filed on October 23, 2023.

The Monitors have recently filed their 13th report with the Court. (attached). While there is evidence of some improvements, particularly in the decline in total uses of force, there continues to be an **enormous gap** between the high frequency with which the Monitors find violations of the *Rosas* provisions on the use of head punches and the very low frequency with which LASD finds violations of those same *Rosas* provisions and the LASD use of force policies that are designed to implement the head strike and force prevention provisions.

For example: the Monitors found the head strikes used by LASD personnel to be out of policy in 17 cases. Report at 3-4 (There were a total of 22 uses of head strikes in the 1st and 2d quarter of 2023, the period covered by the Monitors' 13th report.). The out of policy rate found by the Monitors among those 22 cases was **77%**. By contrast, LASD found only 2 of those 22 cases out of policy, for an out of policy rate of about **9%**. Monitors' Report at 3-4. In

¹ There are three Monitors appointed by District Judge Dean D. Pregerson. One was nominated by the County, one by Plaintiffs, and the third was jointly nominated.

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*deceased

other words, the Monitors find head strikes to be out of policy **about 8.5 times as often** as LASD does.

Unfortunately, in some other areas, it remains difficult to compare the Monitors' out of policy rate compared with LASD's. For example, out of the 50 cases the Monitors reviewed for compliance with Rosas 2.2, which covers force prevention, they found 21 out of compliance, which is a non-compliance rate of 42%. Monitors' 13th Report at 16. The report does not state what percentage of those cases LASD found violated force prevention policies. But we do know that during the whole period covered by the 13th Report, LASD found violations of any force provision in only 10 use of force cases. Monitors' 13th Report at 8. In other words, out of 384 use of force cases, LASD found violations of use of force provisions in only 2.6% of cases.² By contrast, the Monitors found that 42% of the 50 cases they reviewed violated force prevention policies, to say nothing of violations of other force provisions including those governing head strikes.

And, of the 50 cases the Monitors reviewed they found only 16 to be compliant with all use of force provisions. In other words, the Monitors found 24 cases to contain a violation of at least one of the Rosas use of force provisions, for a non-compliance rate of **68%**. By contrast, for the period covered by the 13th Report, LASD found violations of use of force provisions in only **2.6%** of the 384 cases in the period covered by the 13th Report.

We recognize that the Monitors choose to review the 50 packages that contain some of the more significant uses of force and thus are among the most likely to contain policy violations. Yet it is still deeply troubling that the Monitors find violations in 68% of the cases they review, and LASD finds violations in only 2.6% of the total use of force cases. In sum, the Monitors findings of non-compliance in the 13th report are about **26 times greater** than LASD's. And the Monitors found more use of force packages that were non-compliant with Rosas force provisions in the 50 they reviewed for the 13th Report, i.e., 16, than LASD found in the 384 they reviewed, i.e., 10.

The Monitors have made clear over and over again the stakes of LASD's failure to identify clear out of policy uses of force. As the Monitors state in the 13th Report:

In addition to continuing to focus on reducing overall uses of force and head strikes, the Department must hold Deputies accountable for use of force violations and hold supervisory staff accountable when they fail to identify and appropriately address violations. In a majority of the cases reviewed by the Panel for this Report in which the Panel identified force policy violations, Department managers either failed to identify, properly analyze, or address those violations. For example, the Panel found violations of the Department's Limitations of Force (head strikes) policy in 17 cases. The Department concluded the force used in 15 of these cases was objectively reasonable and within Departmental policy. In the remaining two cases, the Department identified

² LASD reported 384 use of force cases in the first two quarters of 2023. Monitors' 13th Report at 3. LASD reported that they imposed discipline for 10 use of force incidents in the first two quarters of 2023, but the underlying incidents may not have occurred in the first two quarters of 2023. Monitors' 13th Report at 8 fn. 7. If the discipline was imposed on incidents from, for example, the first two quarters of 2022, the discipline rate would be even more abysmal. In the first two quarters of 2022, LASD reported 523 uses of force. Monitors' 13th Report at 3. Finding use of force violations in 10 out of 523 cases is only 1.9%.

concerns with the force used and referred the cases for further investigation. ***Speaking plainly, this must change for the Department to achieve compliance with the Settlement Agreement.***

Monitors' 13th Report at 3-4 (emphasis added).

The First Quarter Report released yesterday by Office of the Inspector General supports the Monitors' warnings that LASD fails to identify violations of important use of force policies. The report details two incidents in which deputies punched restrained people in the head outside of policy. Yet the Custody Force Review Committee (made up of three of the six LASD Commanders in Custody Operations) refused to find the force out of policy. OIG Report at 19 (attached). In one case, a deputy punched a man in the head while that man was lying down on a gurney with his hands cuffed behind his back. OIG Report at 20. In the other case, a man spat on a deputy who immediately responded by punching him in the face. OIG Report at 21. In both cases, the first line of review (made up of sergeants) found the head punches out of policy, but they were overruled by the Commanders on the CFRC. OIG Report at 19-20. As the OIG notes, LASD will not be able to stop head punches if Commanders refuse to find incidents out of policy and even overrule people with lower ranks who are trying to evaluate uses of force fairly and accurately. LASD recently established a Custody Force Investigation Team (CFIT), which they claim will increase the quality of force review. CFIT, however, is made up of sergeants. LASD has not articulated any plan to address the problem of Commanders who refuse to find uses of force out of policy and even overrule sergeants' out-of-policy determinations.

The ACLU recognizes that there has been some improvement on head punches, which is reflected in a decline in the number of head strikes in the past few years. Monitors 13th Report at 3. But the decline in numbers does not change the fact that the Monitors find a small percentage of head punches in policy (23%), but LASD supervisors continue to find the vast majority (91%) in policy. Moreover, the evidence is overwhelming that head punches pose a significant risk of serious medical and mental health injuries, particularly in the Los Angeles County jails where such a large percentage of the population has mental illness. See, e.g., Expert Declaration of Erin Thomas Bigler, Ph.D. filed in *Rosas v. Luna* (Oct. 3, 2023) attached. The problem of out of policy use of head punches in the jails dates back well over a decade.³ It is long past time for LASD to eradicate the problem. But both the Monitors and OIG have made clear LASD cannot do so until the conclusions of supervisors' review begin to mirror those of the *Rosas* Monitors and OIG.

In addition, it appears that when the Department does find violations of the 20 use of force provisions in the *Rosas* implementation plan, they routinely discipline at levels below the guideline ranges provided in the LASD Disciplinary Guidelines Manual.

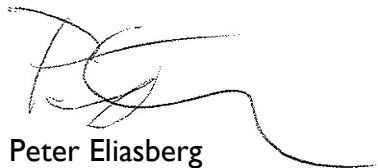
³ See, e.g., *Report of Citizen's Commission on Jail Violence*, at 144 (Sept. 2012), <https://ccjv.lacounty.gov/wp-content/uploads/2012/09/CCJV-Report.pdf>; S. Liebowitz, P. Eliasberg, et al., *Sheriff Baca's Strike Force: Deputy Violence and Head Injuries of Inmates in the LA County Jails* (Sept 2012) ("Correctional officers should strike inmates' heads only as a matter of last resort. But in the Los Angeles County Jails, that is not the reality. As explained below, there is clear evidence that the Los Angeles County Sheriff's Department ("LASD") deputies have used head strikes with alarming regularity in the Los Angeles County jails."), https://www.aclusocal.org/sites/default/files/field_documents/107082827-Sheriff-Baca-s-Strike-Force-Deputy-Violence-and-Head-Injuries-of-Inmates-in-LA-County-Jails.pdf

The Monitors' 13th report notes that 8 use of force incidents resulted in discipline imposed in the 1st and 2nd quarter of 2023. Report at 8-9. The 8 incidents involved 15 people. Of those, nine received written reprimands, four received suspensions between 1 and 2 days, and one person received a 10-day suspension. We recommend asking LASD for the records they provided the Monitors when self-reporting on this discipline. In those records, you will be able to see what the discipline was imposed for, and particularly, how many incidents involved discipline for unreasonable force or failure to prevent a use of force (vs. a simple violation of policy). We cannot share that information because of the protective order in *Rosas*.

CONCLUSION

More than a decade after the release of the Citizens Commission on Jail Violence's report, and the filing of the *Rosas* class action, LASD continues to be plagued by a failure identified in the Citizens Commission report and the *Rosas* lawsuit – not identifying out of policy cases of excessive force. This failure insulates custodial staff from discipline and thus encourages the culture of excessive force the recommendations of the Citizens Commission were designed to root out. We urge justice deputies and members of the Board to vigorously question LASD during its next *Rosas* compliance reports about why it continues to find far fewer use of force violations than the Court-appointed Monitors, why there has been little improvement in this issue since the Department last reported to the Board on *Rosas* compliance in December 2023, and what steps it is taking to address this significant problem.

Sincerely,



Peter Eliasberg
Chief Counsel



Melissa Camacho
Senior Staff Attorney

cc: Justice Deputies
Max Huntsman, Inspector General
Catharine Wright, Assistant Inspector General