August 18, 2020

Ms. Ingrid Williams  
County of Los Angeles  
Civilian Oversight Commission  
350 South Figueroa Street, Suite 288  
Los Angeles, California 90071

Dear Ms. Williams:

RESPONSE TO USE OF FORCE AD HOC COMMITTEE’S REFORM RECOMMENDATIONS DATED JULY 30, 2020

On July 31, 2020, the Civilian Oversight Commission (COC) provided the Los Angeles County Sheriff’s Department (Department) with the Commission’s Use of Force Ad Hoc Committee’s Reform Recommendations dated, July 30, 2020. The Department appreciates the work of the Ad Hoc Committee and has carefully considered each issue the Committee has recommended to reform.

Below is the Committee’s recommendations along with the Department’s response to each recommendation:

1. **Immediately** assure that the 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.

   - The Department is already teaching recruits and in-service personnel that choke holds/carotid restraints, etc., are prohibited per Department policy and state law. The Force Training Unit (FTU) and Field Operations Support Services (FOSS) have been collaborating on a new version of the Force Options Chart and accompanying newsletter that deals with several policy changes, including removing the carotid restraint from the Assaultive/High
Risk category. Every effort is being made to have this finalized in the very near future and released Countywide.

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.**

- Our current training for recruits and in-service personnel explains deputies have an affirmative duty to intervene if they reasonably believe another deputy is using unnecessary or unreasonable force. This has been part of the Academy LD20 lecture for years.

**ADDITIONAL regarding questions 1 and 2:**

Lieutenant Ron Daily and Sergeant Mark Caron had a “meet and confer” conference call with the Professional Peace Officers Association (PPOA) on August 3, 2020, and other stakeholders, regarding proposed manual revisions related to the following Manual of Policy and Procedures (MPP) sections:

a) **3-10/040.00 – Prohibited Force:** The proposed revision specifically stated the “Carotid Restraint” shall only be used under the threat of, or for the prevention of life threatening or serious bodily injury. Additionally, we have removed all references and training of the Carotid Restraint from all of our teaching manuals, (i.e. POST ECO’s, CPT/PSP lectures).

b) **3-10/030.00 – Unreasonable Force:** The proposed manual revision specifically stated that, “Any Department member witnessing force that is clearly beyond the scope of being objectively reasonable...shall intervene and prevent or halt the unreasonable force when feasible to do so. Any Department member who witnesses unreasonable force shall report their observations to their immediate supervisor.

It appears that the proposed manual revision would encompass the Committee’s recommendation.
3. *Immediately* require de-escalation before resorting to use of lethal force.

- Force prevention and de-escalation are fundamental principles in all of our Force Training for Department members. This request/recommendation is problematic to say the least. Requiring de-escalation in every deadly force scenario could put deputies and citizens in unnecessary life threatening danger. The reverence for human life has been, and continues to be, a core value of every deputy sheriff. Using lethal force is not a decision that is taken lightly. As outlined in the U.S. Supreme Court decision of *Graham V. Conner*, peace officers are forced to make split second decisions in situations that are tense, uncertain, and rapidly evolving. Requiring a peace officer to attempt to de-escalate every life threatening situation prior to using lethal force, would be unreasonable and extremely unsafe for peace officers and the citizens they are sworn to protect.

The Department teaches de-escalation attempts only if and when the circumstances deem it is safe to do so. There are numerous variables that could make de-escalation attempts reasonable. Time, distance, cover, type of weapon, etc., could make de-escalation attempts, prior to lethal force, reasonable. However, having a policy that requires de-escalation prior to every use of deadly force would endanger more lives.

Instead of the term *REQUIRED* being used, a phrase/term such as “when practical or reasonable given the circumstances” would be more appropriate.

4. *Immediately* fund and deploy Body Worn Cameras to all Patrol deputies.

- Upon taking office in December 2018, I made the Body Worn Camera Program my number one priority. Last week, after a lengthy and thorough negotiation, the Department has contracted with Axon for the next five years to outfit all field deputies with body worn cameras. We expect to deploy 5,248 body cameras Department-wide over the next 18 months. In approximately 60 days, body cameras will be deployed to the first five stations: Century Station, Lakewood Station, Lancaster Station, West Hollywood Station, and Industry Station. Compton Station, East Los Angeles Station, and remaining stations will soon follow.
5. **Immediately** fund and complete the full rollout of Mental Health Evaluation (MET) teams.

- From 2017 through 2019, the Mental Evaluation Team’s (MET) incremental growth followed a plan which was largely developed with the COC recommendations in mind. This was with regard to hub offices, shorter ETA’s, and program improvements to retain and recruit more clinicians. The MET made tremendous progress in Fiscal Year (FY) 2017-18 and FY 2018-19. Then, the momentum halted with only 50 percent of the needed teams in place.

The CEO shifted the budget priority focus away from the MET expansion. MET has not made any further progress toward expansion due to the lack of funding from the Board of Supervisors.

Without adequate prioritization and funding, we cannot create the remaining MET teams needed to fulfill the “full rollout of MET teams” recommendation by the COC.

6. **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.

- The Department currently tracks deputy complaints in the Performance Recording and Monitoring System (PRMS). Any discipline and/or management action is addressed in the Watch Commander’s Service Comment Report (WCSR) package that is scanned into the system. If a complaint involves force, it can be tracked as such within PRMS. This allows units to query this information for their personnel.

Our system not only tracks complaints and discipline but shows the disposition and resolution regarding our employee’s performance or actions. Force complaints can range from an allegation to an administrative and/or criminal investigation. The Department currently has a section in the complaint module that addresses force complaints specifically.

Furthermore, the Department’s Performance Mentoring Program (PMP) is a proactive risk-management, early intervention program, which utilizes the PRMS to identify at-risk personnel or
personnel with significant liability concerns, in an effort to ensure corrective action is implemented.

7. **Immediately** disband deputy cliques by implementing the Sheriff’s policy announced in April 2020.

   - With the promulgation of Manual of Policy and Procedures (MPP) section 3-01/050.83 – *Employee Groups which Violate Rights of Other Employees or Members of the Public*, the Department, in no uncertain terms makes clear it will not tolerate the formation or existence of any such deleterious group.

   In addition to the above policy, Department members were already guided by MPP sections 3-01/030.05 – *General Behavior* and 3-01/030.07 – *Immoral Conduct*, which state, in part, “A member shall not act or behave while on or off duty in such a manner as to bring discredit upon himself or the Department” and “Members shall maintain a level of moral conduct in their personal and business affairs which is in keeping with the highest standards of the law enforcement profession. Members shall not participate in any incident involving moral turpitude which tends to impair their ability to perform as law enforcement officers or causes the Department to be brought into disrepute,” respectively.

8. **Immediately** increase hours of deputy training devoted to tactics, de-escalation and crisis intervention.

   - Typically, one of the first expenses cut during a financial budget crisis is training. With the cut to the Department’s budget this fiscal year, it would be problematic to increase any form of training at the unit level. The Force Training Unit is increasing the availability of in-service training from two days to four days a week. The Training Bureau hopes opening more training options for station scheduling staffs will increase the number of personnel sent to training. However, with the lack of backfill funding for personnel sent to training, it is not optimistic additional training classes will have full attendance.
9. *Immediately* provide the Office of Inspector General (OIG) 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.

- The OIG will be provided the access they are legally entitled to, which is what they are currently receiving. They will not be permitted to obstruct, interfere, compromise, or otherwise impede any criminal or administrative investigation.

10. *Henceforth,* it is essential that all lethal uses of force by deputies should be investigated by an agency other than the LASD. In this regard there are several potential options. One is to designate the Office of Inspector General to be the primary investigative agency for all lethal uses of force by deputies. Another is to staff and task the California Department of Justice with the responsibility for investigation all fatal uses of force by peace officers employed by a California law enforcement organizations. A third option is to have a task force of detectives from a regional law enforcement organizations conduct such investigation with the provision that no investigator could be employed by the law enforcement organization whose officer or deputy was involved in the shooting or other use of force that led to the death of a civilian. Lastly, in some jurisdictions, Orange County and San Francisco, DA investigators lead investigations.

- I am amenable to the recommendation of having a regional task force to investigate uses of deadly force. I am currently looking into the feasibility of this concept.

11. Without further delay, the LASD should comply with Penal Code 832.7(b), effective January 2019, codifying SB 1421.

- Due to our limited staffing and our lack of SB 1421 specified funding, the fulfillment of SB 1421 compliance has been difficult. We will continue to do the best we can with what we have in place.
12. 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 the same, or have misled or concealed from investigators such conduct on the part of other deputies.

- The California Peace Officers' Bill of Rights (POBAR) entitles peace officers to due process before any disciplinary action can be taken against them by their employer. Additionally, the Meyers-Milias-Brown Act requires employers to negotiate in good-faith with labor unions before any changes can be made to collective bargaining agreements and/or Civil Service rules that would impact the wages, hours, or working conditions of its employees.

13. Exclude from the purview of collective bargaining agreements matters that relate to on-the-job accountability of deputies, including internal investigations and discipline.

- The California Peace Officers' Bill of Rights (POBAR) entitles peace officers to due process before any disciplinary action can be taken against them by their employer. Additionally, the Meyers-Milias-Brown Act requires employers to negotiate in good-faith with labor unions before any changes can be made to collective bargaining agreements and/or Civil Service rules that would impact the wages, hours or working conditions of its employees.

14. 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.

- The proposed 2020 Guidelines for Discipline includes the ability to discharge an employee if found to be in violation of the following (any changes to this would have to be negotiated with the affected labor unions):
  - Use of unreasonable force
  - Failure to make statement, and/or making false statements during Departmental Internal Investigations
  - Failure to report use of force
15. 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.

- This recommendation is out of the Department’s scope of ability and would be more appropriately directed toward other stakeholders.

16. At least annually, LASD should publish data regarding the number of fatal uses of force by deputies and with regard to such cases, the number of deputies disciplined as well as the level of discipline.

- The LASD publishes data at [https://lasd.org/transparency/](https://lasd.org/transparency/). Anyone can access deputy-involved shootings, uses of force, and employee discipline information. This information is shared as part of my transparency promise.

17. 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.

- It is the Department’s credo to treat all members of the community with dignity and respect. These values are encompassed in our Mission Statement and Core Values and have been renewed in new and revised policies. However, the Department steadfastly remains committed to providing the best service to the community and humbly understands there is always room for improvement, and strives to do so with every opportunity.

18. Encourage the Sheriff to embrace the foregoing reforms and establish a working group to work with the Civilian Oversight Commission to accomplish Recommendations 1-17, above, as expeditiously as possible.

- In this effort, I have directed members from my executive staff to avail themselves to the Commission in regularly scheduled monthly meetings.
Should you have any further questions, please contact Captain Rodney Moore, Audit and Accountability Bureau, at [redacted]

Sincerely,

[Signature]

ALEX VILLANUEVA
SHERIFF