

LOS ANGELES POLICE COMMISSION

COMPARATIVE REVIEW OF SELECTED AGENCY POLICIES, INVESTIGATIONS, AND TRAINING ON THE USE OF FORCE: OIG FINAL REPORT



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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I. EXECUTIVE SUMMARY

In November 2015, the Los Angeles Board of Police Commissioners (BOPC or Commission) instructed the Office of the Inspector General (OIG) to prepare a report reviewing use of force policies, investigations, and training at law enforcement agencies around the country, including those of the Los Angeles Police Department (LAPD or Department). The OIG and BOPC selected four outside agencies based on recent changes or improvements the departments have made in these focus areas with the goal of reducing use of force incidents. These agencies are as follows: Dallas Police Department (DPD); Las Vegas Metropolitan Police Department (LVMPD); Metropolitan Police Department (MPD) in Washington, D.C.; and San Diego Police Department (SDPD).¹

The OIG conducted its study in two phases. It first traveled to Las Vegas, Dallas, and San Diego. On May 3, 2016, the OIG presented an interim report to the BOPC with a summary of the information gathered from these three agencies. The OIG then traveled to Washington, D.C., and gathered the remaining information required to complete its review. This final report provides an in-depth review and comparison of the use of force policies, investigations, and training at the four selected agencies and the LAPD.

While the LAPD is, by far, the largest department reviewed for this report, the Department's size in proportion to the population of the City of Los Angeles is in the middle range of the selected agencies (two have higher officer-to-population ratios than the LAPD, and two have lower). Similarly, the total number of officer-involved shooting (OIS) incidents and homicides in relation to the population is neither the highest nor the lowest of all the selected agencies.

Each of the departments, including the LAPD, has comprehensive mechanisms for the oversight and review of officer-involved shootings. The OIG found that the main differences between the departments involve their use of force policies, their level of transparency with regard to use of force incidents, the manner and frequency of officer training, and the support provided to officers after a use of force incident.

Although all of the departments' use of force policies are based upon the "objective reasonableness" standard, derived from the United States Supreme Court case *Graham v. Connor*, there are some notable differences. Several of the departments' policies include the concepts of using deadly force only as a last resort, requiring officers to exhaust all reasonable alternatives prior to using deadly force, and placing an emphasis on the use of de-escalation techniques in critical incidents. The LAPD's use of force policy does not currently include similar language. The LAPD's use of force training does, however, include these concepts in the curriculum. For example, officers are trained in verbalization and tactical communication techniques designed to de-escalate situations without the use of force. Additionally, the LAPD, at the direction of the BOPC, is currently in the process of revising its use of force policy to include the concepts of de-escalation and exhaustion of reasonable alternatives.

¹ While the OIG attempted to include information about all of the selected agencies in the comparison for each item reviewed in this report, it should be noted that there may be sections where the relevant information about a particular agency was not available.

All of the agencies reviewed for this report provide information to the media and public about OIS incidents, but the LVMPD stood out from the rest in this regard. Not only does that agency post a video statement regarding the incident on YouTube just hours after it happens, but the department also gives a comprehensive presentation to the media within the week summarizing the current information learned from the investigation up to that point. By contrast, information about an OIS incident provided by LAPD representatives at the scene and in subsequent press releases is generally limited.

The policies regarding the release of in-car or body-worn video differ among the selected agencies. These policies are necessarily shaped with the applicable legal requirements and other considerations in mind. In accordance with the LVMPD's expansive approach to releasing information about OIS incidents, that agency makes the content of video evidence (including body-worn video) public relatively soon after an incident. By contrast, the LAPD typically does not release video of a use of force incident to the public at any point.² The OIG noted that several departments within California either have begun disclosing video related to use of force incidents or are examining their procedures to allow for the release of video footage of such incidents. For example, the SDPD, along with other agencies within San Diego County, developed a new standardized policy that will result in the release of video to the public by the San Diego District Attorney's Office.

Each of the departments, including the LAPD, maintains qualification requirements for firearms. There are some differences between the departments in these areas. For example, LAPD officers are given an unlimited number of attempts to qualify with their service weapon within a two-month period. Officers generally continue to work in the field during this same testing period even if there are multiple failures to qualify. Other departments, however, give officers a set number of attempts to qualify with their service weapon and if the officer fails to qualify, their weapon is immediately taken from them and they will not be able to return to the field until they have received remedial firearms training and subsequently pass the qualification course.

Several departments make reality-based training a key component in their annual use of force training provided to their officers. Unlike classroom or e-learning training, which provide officers with lessons in a static environment, reality-based training forces officers into realistic scenarios where they must interact with role players who will challenge their decision-making skills in difficult situations. Training officers will then provide feedback on the officers' actions. Based on its review, the OIG found that the DPD and LVMPD had the most extensive reality-based training for officers. For example, the DPD requires patrol officers and specialized uniformed units to attend a full day of reality-based training every year. In addition, the DPD requires officers to complete a 40-hour training course (which includes a day of reality-based training) every two years. Similarly, LVMPD patrol officers receive four hours of reality-based

² On October 4, 2016, the LAPD, for the first time, released surveillance video of an OIS subject running from officers with a firearm just prior to the shooting (the footage did not capture the shooting itself). See: <http://www.latimes.com/local/lanow/la-me-shooting-video-20161004-snap-story.html>.

training every six months. This reality-based training has been used to emphasize de-escalation techniques and improve overall officer tactics.

After an officer is involved in a shooting, departments generally provide the officer with training and a psychological assessment before allowing them to return to the field. These processes vary among the departments. For example, the LAPD requires officers to attend at least one psychological assessment and undergo supplemental training, whereas other departments mandate multiple visits to a department psychologist and a half or full day of reality-based training before returning them to work. The other notable differences between these departments involve the support provided to officers. Two departments have written policies ensuring that involved officers are timely informed throughout the entire investigative and adjudicative process. For example, the LVMPD assigns individuals to support the involved officer throughout the process, communicate with the officer before any release of information, and regularly conduct status checks with the officer every 30 days until final adjudication of the incident.

Overall, the OIG found that all of the agencies reviewed have robust policies, processes, and training standards relating to the use of force, including thorough procedures for responding to, investigating, and evaluating OIS incidents and other serious uses of force. The OIG noted in its review a number of innovative policies and practices developed by other agencies. The OIG has presented its research and findings to Commissioners Matthew Johnson and Sandra Figueroa-Villa. Based on that presentation, and in the furtherance of the Commission's goal of constantly evaluating and improving the LAPD's processes for managing and evaluating serious use of force incidents, Commissioners Johnson and Figueroa-Villa and the OIG devised a series of recommendations regarding both policy and training for the full Commission's consideration. This report sets forth those recommendations.

II. SELECTED AGENCY BACKGROUND

The OIG worked with the BOPC to determine which cities to include in this review. The OIG and BOPC focused on agencies that have made recent changes or improvements in their use of force policies, investigations, and training with the goal of reducing use of force incidents. In order to provide a context for the discussion that follows, this section outlines, for each of the five selected agencies, the characteristics of the jurisdiction and department, as well as the total number officer-involved shooting (OIS) incidents and homicides over the past five years.

A. Jurisdiction and Department Characteristics

The City of Los Angeles has, by far, the largest jurisdiction population of all the selected agencies. Dallas, San Diego, and the Las Vegas Metropolitan area all have approximately 1.3 to 1.5 million people, and the District of Columbia is the smallest, with just under 700,000 residents. There is also large variation in the size of the geographic areas served by each agency (the LVMPD's jurisdiction is more than 100 times the size of Washington, D.C.).

Notwithstanding the differences in geographic area and population, there are similarities between these departments. In order to provide a useful comparison between these different-sized agencies, the following table shows the size of each agency’s jurisdiction (both population and geographic size), the size of the department and the breakdown of its employees (sworn vs. civilian), and the number of total sworn officers in proportion to the population and geographic area.

		LAPD	DPD	LVMPD	MPD	SDPD
Jurisdiction Size	Population ³	4 million	1.3 million	1.5 million ⁴	672,000	1.4 million
	Geographic Area ⁵ (square miles)	472	341	7,560	61	343
Department Size	Total Sworn	9,901	3,400	2,709	3,737	1,867
	Total Civilian	2,805	730	1,622	533	694
	% Sworn	78%	82%	63%	88%	73%
	% Civilian	22%	18%	37%	12%	27%
Officer-to-Population Ratio		1 : 404	1 : 382	1 : 554	1 : 180	1 : 750
Officers per Square Mile		21	10	0.4	61	5

As this table indicates, the LAPD is in the middle of the pack with respect to the total number of officers in proportion to the population and the breakdown of sworn officers vs. civilian employees (for both categories, the LVMPD and SDPD were below the LAPD, and the DPD and MPD were above). As for the number of officers per square mile, the LAPD has the second-highest ratio after the MPD.

B. Officer-Involved Shooting Incidents

Each selected agency has its own definition of a “serious use of force.” Typically, this definition consists of different types of incidents that all fall under the “serious use of force” umbrella and receive the same or similar treatment in terms of investigation, review, and adjudication. At the LAPD, these are called “categorical use of force” incidents, and the following is a list of all the types of incidents that fall under this category:

- An incident involving the use of deadly force (e.g., discharge of a firearm) by a Department employee

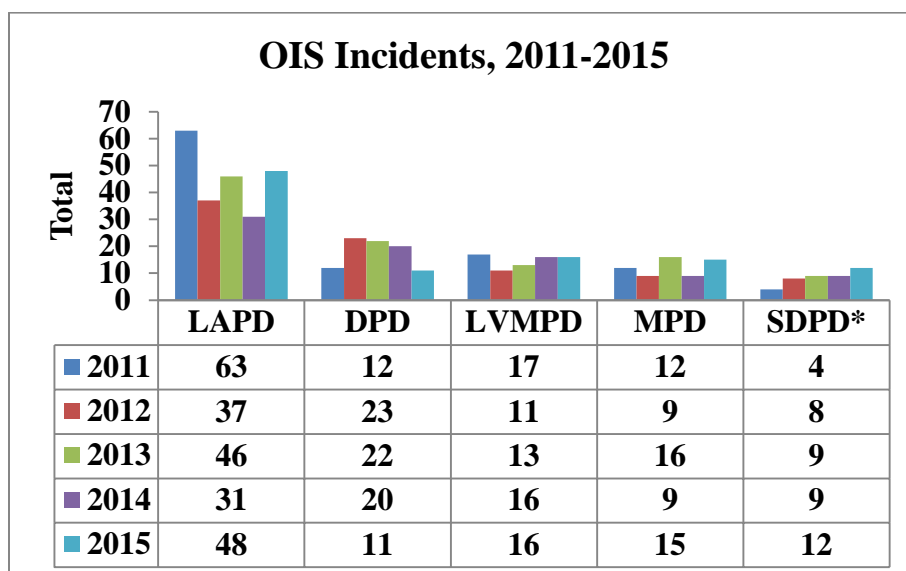
³ 2015 Population Estimates, U.S. Census Bureau. 2015 Annual Report, Las Vegas Metropolitan Police Department.

⁴ In addition to this permanent population, the Las Vegas Strip corridor has an increased visitor population of 300,000 each week.

⁵ QuickFacts, U.S. Census Bureau. Facts About Los Angeles, DiscoverLosAngeles.com. 2015 Annual Report, Las Vegas Metropolitan Police Department. San Diego Fast Facts, San Diego Association of Governments.

- All uses of a carotid restraint control held by a Department employee
- All deaths while an arrestee/detainee is in the custodial care of the Department, commonly referred to as an “In-Custody Death”
- A use of force incident resulting in death
- A use of force incident resulting in an injury requiring hospitalization, commonly referred to as a “Law Enforcement-Related Injury”
- All intentional head strikes with an impact weapon or device (e.g., baton, flashlight, etc.) and all unintentional (inadvertent or accidental) head strikes that result in serious bodily injury,⁶ hospitalization, or death
- Officer-involved animal shootings and non-tactical unintentional discharges
- An incident in which a member of the public has contact with a Department canine and hospitalization is required⁷

In comparing this definition to those used by the other selected agencies, the OIG noted that there is significant overlap; however, not all incident types are treated the same way. Accordingly, and for the sake of simplicity, the OIG chose to focus this comparative report on the one type of incident that all agencies categorize as a “serious use of force,” which is an incident where an officer intentionally fires a firearm at a person, regardless of whether the person is hit. This next chart shows the total number of officer-involved shooting (OIS) incidents for each agency from 2011 to 2015.



* These figures have been corrected since the report was adopted on October 11, 2016.⁸

⁶ Serious bodily injury, as defined in California Penal Code section 243(f)(4), includes, but is not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

⁷ LAPD Department Manual, section 3/792.05 (2015 3rd Quarter).

There does not appear to be a clear trend across these agencies in total OIS incidents year-to-year. The LAPD and MPD totals fluctuated up and down over the course of the 5-year period, while the LVMPD's were relatively consistent. The DPD's highest years were in the middle of the period, and the SDPD had a slight upward trend. The next table shows the five-year average for OIS incidents for each agency and homicides in the respective jurisdiction; both figures are shown in total and in proportion to the population.

		LAPD	DPD	LVMPD	MPD	SDPD ⁹
OIS Incidents (5-year average)	Total	45	17.6	14.6	12.2	8.4
	Per 100,000 population	1.1	1.4	1.0	1.8	0.6
Homicides (5-year average)	Total	278	136.4	102.2	113.4	38.6
	Per 100,000 population	7.0	10.5	6.8	16.9	2.8

As this table indicates, the LAPD again is in the middle range for all the agencies with respect to these figures. The SDPD and LVMPD both had a lower number of OIS incidents and homicides in proportion to their respective populations, while the DPD and MPD had higher proportions than the LAPD.

III. USE OF FORCE POLICIES

In its review of the use of force policies for each of the selected agencies, the OIG noted differences in language related to three specific areas: the use of deadly force only as a last resort, a requirement that officers exhaust all reasonable alternatives prior to using deadly force, and an emphasis on the use of de-escalation techniques in critical incidents. This section describes the different types of policy language and provides excerpts from each of the selected agencies' policies.

The OIG also noted in its review that the SDPD and LAPD's use of force policies focus on the "objective reasonableness" standard, derived from *Graham v. Connor*, which is common to other agencies across the country. The LAPD, however, is currently in the process of revising its use of force policy. On March 15, 2016, the BOPC directed the Department to revise the use of

⁸ On October 11, 2016, the OIG was notified that the OIS figures originally reported by the SDPD were incorrect. The totals in the original chart were as follows: 2011=9, 2012=12, 2013=16, 2014=11, and 2015=15. These totals included not only OIS incidents involving SDPD officers but also additional OIS incidents involving other agencies that were investigated by the SDPD's Homicide Unit (either because the OIS occurred in the SDPD's jurisdiction or based upon an agreement with that agency). The figures in the chart above represent the correct totals reported by the SDPD for OIS incidents involving SDPD officers from 2011 to 2015.

⁹ On October 11, 2016, the OIG was notified that the OIS figures originally reported by the SDPD were incorrect (see Footnote 8 above). Based on the figures originally reported by the SDPD, the 5-year averages for the SDPD were 12.6 OIS incidents and 0.9 OIS incidents per 100,000 population. The figures in the table above incorporate the correct totals reported by the SDPD.

force policy to include the concepts of de-escalation and exhaustion of reasonable alternatives.¹⁰ Also at the BOPC's direction, the OIG convened a working group, which included representatives from the Department, Los Angeles Police Protective League, and the City Attorney's Office, to develop this policy language. The language developed by this working group will go through the meet-and-confer process before being presented to the BOPC for potential adoption.

A. "Last Resort" Language

While "last resort" language appears in other use of force policies across the country, the DPD was the only agency of the five selected to have this term in its use of force policy. The DPD policy states, "Deadly force will be used with great restraint and as a last resort only when the level of resistance warrants the use of deadly force." The current LAPD use of force policy does not contain specific "last resort" language; however, this concept is included as part of the Department's use of force training curriculum.

B. "Exhaustion of Reasonable Alternatives" Language

The use of force policies at both the DPD and MPD include a requirement that officers exhaust reasonable alternatives prior to using deadly force (it is also referenced in the LVMPD policy discussed in the next section):

- The DPD policy contains a section titled "Avoiding the Use of Deadly Force," which states, in part, "At the point when an officer should reasonably perceive the potential exists that deadly force may be an outcome of any situation, the officer must use reasonable alternatives if time and opportunities permit." "Reasonable Alternative" is defined as: "An action that may be taken by the officer that may allow the officer to avoid the use of deadly force."
- The MPD policy, as codified in the District of Columbia's Municipal Regulations, requires officers to "use only the minimum amount of force, which is consistent with the accomplishment of his or her mission, and shall exhaust every other reasonable means of apprehension or defense before resorting to the use of firearms."

Prior to 2009, the LAPD also had similar language in its use of force policy: "Deadly force shall only be exercised when all reasonable alternatives have been exhausted or appear impracticable." That language was removed when the use of force policy was revised in 2009. While this concept is no longer explicitly stated in the use of force policy, it is still taught as part of the

¹⁰ For more on the BOPC's direction regarding revising the Department's use of force policy, please see the OIG's *Ten-Year Overview of Categorical Use of Force Investigations, Police, and Training* (March 10, 2016), available at: http://media.wix.com/ugd/b2dd23_3139a5342cc34ce2860af7536887f149.pdf.

Department's current use of force training (much like the concept of deadly force only being used as a last resort).

C. "De-escalation" Language

The LVMPD was the only selected agency where de-escalation served as a centerpiece of the use of force policy.¹¹ The LVMPD's overall expectation of its officers in relation to using force is as follows: "When use of force is needed, officers will assess each incident to determine, based on policy, training and experience, which use of force option will de-escalate the situation and bring it under control in a safe and prudent manner." The policy also describes what de-escalation means in practice:

De-Escalation - Policing requires that at times an officer must exercise control of a violent or resisting subject to make an arrest, or to protect the officer, other officers, or members of the community from risk of imminent harm. Clearly, not every potential violent confrontation can be de-escalated, but officers do have the ability to impact the direction and the outcome of many situations they handle, based on their decision-making and the tactics they choose to employ.

When reasonable under the totality of circumstances, officers should gather information about the incident, assess the risks, assemble resources, attempt to slow momentum, and communicate and coordinate a response. In their interaction with subjects, officers should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force. Officers should recognize that they may withdraw to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of Force Options. Officers shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.

The LAPD's use of force policy does not specifically reference or require de-escalation. The concept, however, is included in the Department's use of force training in a variety of ways. For example, officers are trained in verbalization and tactical communication techniques, how to interact with individuals with mental illness, and other tactics for de-escalating and diffusing tense situations. Furthermore, as noted above, the LAPD is currently in the process of revising the use of force policy to include both this concept and the exhaustion of reasonable alternatives, based on the BOPC's direction on March 15, 2016.

¹¹ There are a number of other agencies that have similarly placed emphasis on de-escalation in their use of force policies; the Seattle Police Department is one example.

IV. OFFICER-INVOLVED SHOOTING INVESTIGATIONS

As previously stated, the OIG focused this review on the investigation of OIS incidents where an officer intentionally fired a firearm at a person, regardless of whether a person was hit. When such an incident occurs, both a criminal and administrative investigation of the involved officer(s) is conducted by the employing department. The results of the criminal investigation may be forwarded to the local prosecutorial agency, and the results of the administrative investigation are used internally for training, discipline, or other administrative actions. This section outlines the key differences in how each of the selected agencies investigates OIS incidents. These differences are in the following areas: the unit responsible for the two investigations; the entities involved in the on-scene investigation; the timing and procedures for interviewing involved officers; and policies regarding the public release of information (including body-worn and in-car video footage).

A. On-Scene Investigation

The entity responsible for investigating OIS incidents and the timing of the criminal investigation in relation to the administrative investigation are particular to each agency:

- The LAPD has a dedicated unit, Force Investigation Division, that is responsible for investigating OIS incidents. This unit conducts both the criminal and administrative investigations concurrently (each investigation is conducted by a separate team of detectives) to avoid any delay in the initiation of the administrative investigation.
- The LVMPD also has dedicated investigative units that conduct concurrent criminal and administrative investigations of an OIS incident. The LVMPD's Force Investigation Team conducts the criminal investigation and the Critical Incident Review Team conducts the corresponding administrative investigation.
- The three remaining agencies (DPD, MPD, and SDPD) assign the criminal investigation of OIS incidents to the respective agency's Homicide, Internal Affairs, or other criminal investigation unit, and the administrative investigations are conducted by Internal Affairs.¹² These three agencies delay the initiation of the administrative investigation until the criminal investigation is complete or once it becomes clear that there will be no criminal liability for the involved officers.

The personnel present during the agencies' on-scene investigation of an OIS incident include, but are not limited to, the assigned investigators, media spokespersons, involved and witness officers and their representatives, and various supervisors and command staff. A representative from the local prosecutorial entity (e.g., District Attorney) may also respond.

¹² Previously, the MPD had a separate Force Investigation Team, which was solely responsible for OIS investigations, but it was disbanded in 2012 and those investigators were absorbed into Internal Affairs.

Some agencies have additional individuals present at the scene of incidents, and they play a variety of roles. At the scene of OIS incidents involving LAPD officers, the OIG is present to monitor the on-scene investigation. For the LVMPD, two citizen members of the LVMPD's Use of Force Review Board respond to receive an on-scene briefing, and these two individuals later sit on the board for that incident. Employee support staff also respond to assist the involved officers at DPD, LVMPD, and SDPD incidents. Finally, SDPD and DPD training staff respond to the scene of OIS incidents to identify department-wide training issues, if any are apparent at that time.

B. Officer Interviews

A significant difference between the agencies was the timing of the officer interviews. A result of the LAPD's concurrent investigation approach is that both the criminal and administrative interviews are initiated within hours of the incident.^{13, 14} Both the MPD and SDPD interview officers for the criminal investigation on the same day as the incident; however, the administrative interviews are delayed until the criminal investigation is complete and/or a declination letter¹⁵ is issued.¹⁶

By contrast, LVMPD officers are not required to submit to an interview in connection with an OIS investigation for at least 48 hours following the incident, although this period may be waived by the officer. If the involved officer chooses to provide an interview for the criminal investigation, the administrative interview will take place after that, generally 48 hours to one week after the incident. DPD officers are given what the DPD terms a Critical Incident Recovery Period of three administrative days before they must submit to an interview for the criminal investigation, and the administrative interview is conducted once the criminal investigation is complete.

Most of the agencies permit officers to view video footage captured by their own in-car or body-worn video, but the timing of this varies from agency to agency. Additionally, each agency has a

¹³ Occasionally, there are extraordinary circumstances that necessitate officers being interviewed at a later date (e.g., the officer was injured and needed to receive medical treatment).

¹⁴ Like members of the public, police officers have the constitutional right to remain silent and not incriminate themselves (*Garrity v. New Jersey*, 385 U.S. 493 (1967)). This protection entitles an officer to refuse to provide a statement to investigators during the criminal investigation of an OIS incident. An officer may be required, however, to provide a statement for a related administrative investigation, but that administrative statement cannot be used in a subsequent criminal proceeding (*Lybarger v. City of Los Angeles*, 40 Cal.3d 822 (1985)).

¹⁵ This is a letter from the local prosecutorial authority stating that the office will not initiate criminal proceedings based on the evidence presented.

¹⁶ In some instances, investigators may determine that the officer interview conducted during the criminal investigation is sufficiently comprehensive that no administrative interview is necessary.

policy regarding whether officers may view any video captured from other sources (such as in-car or body-worn footage from other officers, security cameras, etc.).

LAPD officers are shown the video captured by their own in-car or body-worn video prior to being interviewed. The SDPD takes the same approach as the LAPD in allowing officers to view their own video prior being interviewed, and the DPD and LVMPD go one step further by allowing officers to view this video prior to their walk-throughs at the scene. By contrast, the MPD waits until it is determined that the investigation is no longer criminal in nature and purely administrative to allow officers to view video evidence, as deemed necessary. In the case of a fatal OIS incident, however, the video will remain restricted.

With respect to viewing other sources of video evidence, LAPD officers are not permitted to view any other video, including any captured by other officers at the incident, absent some investigative necessity, as determined by the investigative team. While the DPD and LVMPD do allow officers to view this additional footage, the MPD and SDPD do not.

C. Public Release of Information

All of the agencies provide information about OIS incidents to the media, with varying levels of detail. Most of the agencies provide on-scene briefings with limited information about the incident. Information provided by LAPD representatives at an OIS scene and in subsequent press releases is generally limited to information such as the time and location of the incident, a general description of what prompted the officers' response, whether any suspect weapons were recovered, and the general conditions of the officers and suspect.

The LVMPD stands out among the selected agencies because, as soon as it is feasible, this agency posts a video statement about every incident on YouTube.¹⁷ Approximately 48 hours after an OIS incident, the LVMPD releases the name, rank, tenure, and age of the involved officer. Then, following an internal briefing approximately 72 hours later, the Undersheriff conducts a comprehensive media briefing. This briefing includes a 15-20 minute presentation of the information learned from the investigation up to that point (this presentation is also made available online). The presentation typically provides the following information (not an exhaustive list):

- Date, time, and location of the incident
- Identifying information of the suspect (including a photograph and the suspect's name, age, criminal history, and type of weapon used)
- Identifying information of the involved officers (including name, age, tenure, assignment, type of weapon used, number of rounds fired, whether the officer was

¹⁷ This video statement is typically 1-2 minutes long and describes details of the incident as they are known at the time of the briefing. These details include not only the time and place but also the reason for the officers' response, what they encountered upon arrival, what occurred when they made contact with the suspect, whether the suspect had any weapons (actual or perceived), and the condition of the suspect as a result of the OIS.

- equipped with a body-worn camera, and whether the camera was turned on during the incident)
- Reason for the officers' response, what they encountered upon arrival, and the actions of all the parties leading up to and immediately following the OIS
 - Video evidence (including surveillance or body-worn video footage)
 - 911 call recordings
 - Crime scene photographs with the locations of the parties and the distances between them marked
 - Evidence recovered and its location in crime scene photographs
 - Conditions of the officers and suspect as a result of the OIS

There are instances in which some of this information is not released based on an ongoing criminal investigation of the suspect (e.g., the suspect survived the OIS and is being prosecuted for a double murder).

With the expansion of body-worn and in-car video, each agency has a different approach to releasing video evidence to the public. Each agency's policy is shaped, at least in part, by the applicable legal requirements for public access to government records, which vary by jurisdiction. As stated above, the LVMPD releases the footage from body-worn cameras as part of the comprehensive media briefing days after the incident. The DPD and MPD determine whether to release footage during the investigation on a case-by-case basis, and both have done so in past.

The California Public Records Act (Gov. Code, § 6250 et seq.) is the statute that governs the disclosure of public records by governmental agencies statewide. Under this statute, all public records must be disclosed to the public, upon request, unless an exemption applies or where the public interest in nondisclosure clearly outweighs the public interest in disclosure. Generally, the exemptions are discretionary, and an exemption does not necessarily prohibit an agency from disclosing a particular record. In fact, when enacting the Act, the legislature indicated that "access to government records has been deemed a fundamental interest of citizenship" and that "maximum disclosure of the conduct of governmental operations [is] to be promoted by the act."¹⁸ The California Public Records Act also allows each agency to decide for itself whether it wants to release certain types of records that fall under an exemption, and the disclosure policies adopted by one agency do not bind or in any way dictate the actions of a different California agency. This means that different agencies may take opposite viewpoints on disclosure of the same or similar types of information.¹⁹

¹⁸ *CBS, Inc. v. Block*, 42 Cal.3d 646 (1986).

¹⁹ It is not uncommon for agencies to differ in their approach to disclosing information to the public. For example, some local agencies release police reports, with few exceptions, in their entirety, whereas other departments will only release a summary of the report or a redacted version of the report. Similarly, departments have also differed on the disclosure of 911 tapes and booking photos.

Recently, a number of California law enforcement agencies have decided to release video footage of controversial OIS incidents. These videos include body-worn camera footage from the Fresno Police Department,²⁰ in-car video footage from the Sacramento Police Department,²¹ and surveillance and cell phone video from the El Cajon Police Department.²² On October 4, 2016, the LAPD, for the first time, released surveillance video of an OIS subject running from officers with a firearm just prior to the shooting (the footage did not capture the OIS itself).²³ At this point, it is unclear what position these departments will take on releasing video evidence in future OIS incidents.

The policy regarding the release of video evidence from SDPD OIS incidents was recently changed. Previously, the SDPD's policy was that video evidence would be released only at the discretion of the Chief of Police, and the SDPD had not released any footage under that policy. Recently, however, the SDPD took part in a regional working group that developed a standardized video release protocol for a number of the law enforcement agencies in the region. Other members of the working group included representatives from other cities within San Diego County, the Sheriff's Department, and the District Attorney's Office. It is anticipated that the new protocol, announced in early August of this year, will result in the release of more video by the San Diego County District Attorney's Office in incidents involving officers from all the participating agencies.^{24, 25}

The LAPD and the District Attorney's Office are currently considering whether a video release protocol like the one implemented in San Diego County could be viable in Los Angeles.

V. RETURN-TO-DUTY PROCESS AND OFFICER SUPPORT

Each of the five agencies included in this report has a different process for returning an officer to duty following an OIS incident. While there is variation among the agencies, officers are

²⁰ See: <http://www.fresnobee.com/news/local/article89431417.html>.

²¹ See: <http://abcnews.go.com/US/sacramento-police-release-video-fatal-cop-shooting-50/story?id=42256543>.

²² See: <http://www.latimes.com/local/lanow/la-me-ln-third-night-protests-el-cajon-20160930-snap-story.html>. It is worth noting that the El Cajon Police Department is one of the San Diego County agencies participating in the protocol related to the release of video evidence by the District Attorney's Office.

²³ See: <http://www.latimes.com/local/lanow/la-me-shooting-video-20161004-snap-story.html>.

²⁴ The following is a list of the agencies that signed this new protocol: San Diego County Probation, San Diego County District Attorney Investigators, San Diego Police Department, San Diego Sheriff's Department, Chula Vista Police Department, National City Police Department, Coronado Police Department, San Diego Port District Police Department, El Cajon Police Department, La Mesa Police Department, Escondido Police Department, Carlsbad Police Department, Oceanside Police Department, San Diego Community College District Police Department, and San Diego Unified School District Police Department.

²⁵ The full text of this new protocol is attached at the end of this report as an appendix.

typically required to attend sessions with a mental health professional, and some of the agencies require officers to complete some type of training following an OIS incident. The entity responsible for the return-to-duty evaluation and decision varies from agency to agency, as does the average time officers are kept out of the field. The last item addressed in this section is the different agencies' approaches to providing involved officers with support and information during the course of the investigation and adjudication process.

A. Mental Health Counseling

All of the agencies require involved officers to attend at least one session with a mental health professional, and some require officers to complete training as well. LAPD officers who are involved in an OIS are required to attend at least one session with a mental health professional within the first week after the incident (follow-up sessions may be required based on the assessment).²⁶ These officers are also required to complete a General Training Update (GTU) within 90 days of the incident. The GTU consists of a review of the Department's policies and training in six mandatory areas, with additional topics added, if warranted, based on the details of the incident.²⁷ This training is a general review of policies and training; it does not include a discussion of the facts of the incident or the officer's individual actions. The GTU is typically provided to an officer after returning to duty by the training coordinator at the officer's assignment, or by Training Division personnel on some occasions, and it typically lasts anywhere from 30 minutes to one hour.

The LVMPD requires officers to undergo at least two evaluations, one soon after the incident and the second following completion of their return-to-duty training. It was reported, however, that most LVMPD officers attend three to four sessions prior to returning to duty. DPD officers are required to complete three sessions, the first in the week following the incident, the second three months later, and the final session six months after the date of the incident. The DPD and LVMPD also require officers to complete reality-based training (a full day for DPD officers and a half-day for LVMPD officers²⁸) provided by training staff. This training is individualized to the officer based on the particulars of the incident.²⁹ Finally, the DPD and LVMPD are the only

²⁶ This is the same requirement for SDPD officers. At the other end of the spectrum, MPD officers are required to attend a total of six sessions with an employee assistance counselor.

²⁷ The mandatory topics are as follows: Use of Force Policy, Command and Control, Required Equipment and Maintenance, Tactical Communication, Tactical Planning, and the Force Option Simulator. Additional topics may include, for example, Foot Pursuits, Suspects with Edged Weapons, Undercover Operations, Barricaded Suspects, etc.

²⁸ In addition to this half-day of reality-based training, LVMPD officers must also complete a half-day of Advanced Officer Skills Training.

²⁹ The LVMPD's individualized training is formulated based on input from the administrative investigators and, at times, by the department psychologist that worked with the officer.

agencies reviewed for this report that require officers to re-qualify with their firearms prior to returning to the field.³⁰

B. Return-to-Duty Decision and Timing

The entity with the authority to decide whether officers should return to the field, and if any restrictions should be attached, varies between agencies from the divisional commander to the Chief of Police. In all LAPD OIS incidents, the Chief of Police makes the decision after a briefing approximately one week after the incident and following the officer being cleared for duty by a Department psychologist. LAPD officers can be returned to duty (either full or modified) or remain on administrative leave. For SDPD officers, this decision is also made by the Chief of Police. At the DPD, this determination is made by the officer's divisional commander; however, in incidents resulting in death, this decision is made by the Chief of Police. Once an MPD officer has been cleared by a mental health professional, and based on the findings of the preliminary investigation, Internal Affairs makes the determination of whether the officer will return to full duty, be temporarily assigned to non-field duties, remain on administrative leave, or have their police powers revoked.

The OIG found that the LVMPD had the most extensive return-to-duty review process of all the agencies. Once a department psychologist has recommended that an officer be returned to duty, a Return-to-Duty Board is convened. This board is composed of representatives from the officer's chain of command, Internal Affairs, investigative supervisors, employee support and representative organizations, and risk management, among others. The board evaluates whether the officer should be returned to the field, based on input from training staff and employee assistance personnel, and makes a recommendation to the Undersheriff to return the officer to duty, either in a full or modified capacity, or extend the administrative leave. This recommendation is accompanied by a comprehensive evaluation of the training received by the officer following the OIS incident. The Undersheriff can then concur, disagree, or modify the board's recommendation.

The average time an officer involved in an OIS incident spends on administrative leave at each of these agencies can range from a week to a few months. At both the LAPD and SDPD, officers are typically returned to the field approximately one to two weeks after an OIS incident (assuming there are no unusual circumstances). By contrast, MPD and DPD officers are typically not returned to full duty for almost a month, and LVMPD officers remain out of the field for up to two or three months. This extended time out of the field is needed, at least in part, so that MPD, DPD, and LVMPD officers can complete the required mental health counseling sessions and any required training.

³⁰ The LVMPD's firearms qualification following an OIS incident is also similarly individualized to the officer.

C. Officer Support and Information

Finally, the agencies varied with respect to the type and amount of support provided to officers involved in an OIS incident, as well as how officers are kept informed about the progress of the investigation. For LAPD officers involved in an OIS incident, there is no routine requirement for follow-up after the original mandatory session with a mental health professional (as discussed above). There are, however, resources available to officers who want to take advantage of them. These include the Department's mental health professionals in the Behavioral Sciences Section, the City's Employee Assistance Program (which provides free counseling and other support services), and peer support from trained officers. The Department does not have a formal process for keeping officers informed of the progress of the investigation while the investigation is pending. Typically, officers will receive notifications from their chain of command when the Use of Force Review Board is coming up (so they have the opportunity to attend) and they will be informed of the BOPC's final adjudication.

Involved officers at the DPD, LVMPD, MPD, and SDPD are all provided formal support from the beginning of the investigation, starting at the scene of the incident. At each of these agencies, peer officers or trained counselors are responsible for providing emotional support to the officer throughout the process.

Additionally, the DPD and LVMPD have written policies regarding keeping involved officers informed of the status of the investigation throughout the process, either through their chain of command or another entity. For example, prior to the LVMPD media briefing following an OIS incident, the officer is contacted by the Sheriff and Undersheriff for the purpose of checking their welfare and informing them of what exactly will be released to the public. Not only is an officer notified of upcoming events (e.g., Use of Force Review Board) by the investigating detectives, LVMPD personnel from the Office of Internal Oversight will stay in contact with the officer and conduct status checks every 30 days.

VI. OFFICER-INVOLVED SHOOTING REVIEW AND ADJUDICATION

The process for the administrative review and adjudication of an OIS incident differs among the selected agencies. This section outlines what entity within each agency makes the final adjudication determination, what findings can be made, and the extent to which there is any oversight or outside review of the process.

A. Adjudicating Entities and Determinations

There was some variation across the agencies reviewed for this report in terms of the entity responsible for the administrative adjudication of OIS incidents and the different potential determinations. For OIS incidents involving LAPD officers, the BOPC is the adjudicating body and has sole authority to determine whether an officer's actions were consistent with Department policy and training standards. Notably, the decisions made by the BOPC in these cases cannot

be changed by the Chief of Police; however, only the Chief of Police has the authority to impose discipline on an officer as a result of the BOPC's determination that the officer violated Department policy and/or training standards.^{31, 32} This system is significantly different than those employed by the other four agencies reviewed for this report. OIS incidents involving DPD and SDPD officers are adjudicated by the Internal Affairs at those agencies. The systems employed by the LVMPD and MPD give the adjudicating authority to an internal Use of Force Review Board.³³ For the DPD, LVMPD, and SDPD, however, the ultimate decision-making authority rests with the Chief of Police or Sheriff. At the MPD, the Chief of Police can direct the board to go back and review the matter, but the board's ruling is final and the Chief can react to any appeal if discipline is involved.

The LAPD's adjudication process is also unique in that officers are evaluated and receive formal findings in three separate categories: 1) Tactics, 2) Drawing/Exhibiting of a Firearm, and 3) Use of Force. The Tactics category involves an evaluation of each officer involved in the incident, including those that did not use force, to determine whether the tactics used substantially deviated from approved Department tactical training, and if so, whether the deviation was justified under the circumstances. The Drawing/Exhibiting of a Firearm and Use of Force determinations are made by evaluating the officer's actions using the LAPD's specific policies related to each of those actions. Under the LAPD's current use of force policy, the reasonableness of an officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force.³⁴

³¹ The BOPC's administrative findings as to whether officers followed training and policy standards are final and cannot be overturned. There are, however, other processes through which incidents may be reviewed, independent of the administrative adjudication process. For instance, where the Chief of Police imposes a disciplinary penalty on an officer for violating the use of force policy, that penalty can be appealed through the Board of Rights (BOR) process. If the BOR finds the officer "Not Guilty," the disciplinary penalty is withdrawn, but this result would not affect the BOPC's finding that the officer had violated Department policy. Similarly, a case may be the subject of civil litigation and/or the subject of criminal review by the District Attorney.

³² In contrast, the San Francisco Police Commission is responsible for imposing punishment for all serious misconduct cases. The San Francisco Chief of Police can impose a suspension for officers up to 10 days. The officer may appeal the decision directly to the Police Commission, which then has final decision-making authority. If the Chief of Police wishes to impose a suspension in excess of 10 days or termination, the Chief must file charges with the Police Commission, and the Police Commission is responsible for determining the appropriate punishment for the officer.

³³ This board consists of representatives from the officer's chain of command, other command staff, training staff, peer officers, and, in some cases, members of the public or oversight entity. These boards are presented with the findings of the investigation, may ask questions of the investigators or involved officers, review the officer's employment history, deliberate, and then make a final determination regarding the officer's use of force.

³⁴ LAPD Department Manual, section 1/556.10 (2015 3rd Quarter). This provision was adopted by the BOPC on March 4, 2014. For more information on this policy, please see the OIG's *Review of Categorical Use of Force Policy* (February 12, 2014), available at: http://media.wix.com/ugd/b2dd23_834121d857cc42ac84fc09661cd182a7.pdf.

While none of the other agencies have an independent finding for an officer's tactics, some of them include an evaluation of the tactics in conjunction with the use of force determination and/or hold a separate review of tactics to identify training needs. For example, both the LVMPD and MPD have an adjudication category for instances where an officer's use of force was justified but there were tactical deficiencies. Subsequent to the use of force adjudication, the DPD, LVMPD, and SDPD all convene a separate review to evaluate the officers' tactics, the purpose of which is to identify training needs.³⁵ This review does not change or in any way affect the use of force determination.

For all five agencies, the use of force adjudication can have different results, ranging from no action or remedial training to formal discipline (up to and including termination). At the LAPD, the Chief of Police, not the BOPC, determines whether officers should receive extensive retraining and/or discipline as a result of the BOPC's use of force adjudication.³⁶ This division of authority between the Chief of Police and the BOPC is unique among the selected agencies. At the other agencies, the different adjudicating bodies may submit policy violation findings to their respective discipline systems. For example, where the LVMPD's Tactical Review Board determines discipline is required as a result of its review of an OIS incident, that finding is sent to the Labor Relations Bureau for the normal discipline process. Similarly, policy violations found by the MPD's Use of Force Review Board are forwarded to the Disciplinary Review Division, and that entity will report back in 15 days on the actions taken as a result. At the SDPD, any discipline decisions based on policy violations during an OIS incident are made by the captain of the involved officer.

B. Role of Oversight

Another component that differed among the selected agencies was the level of oversight for use of force investigations and the associated outcomes. Currently, there are a variety of police oversight structures in use around the country with different scopes of authority. Two of the more common structures are Offices of the Inspector General and Citizen Review Boards. In addition to these different structures, the responsibilities and authority of oversight entities also vary. While some oversight entities have investigative powers, others serve in more of an advisory capacity. Additionally, there are certain entities whose focus is limited to complaints of officer misconduct by members of the public.

³⁵ Determinations made by the LVMPD's Tactical Review Board may also form the basis for discipline and/or changes to policy.

³⁶ All officers participate in a "Tactical Debrief" at a minimum, regardless of the use of force finding. This consists of a discussion of the incident with Training personnel that is intended to serve as a mechanism for enhancing future performance by reinforcing, improving, or developing an officer's tactical skills.

1. Office of the Inspector General - LAPD

The OIG's role within the City of Los Angeles is to support the BOPC,³⁷ and the public, by providing information and analysis regarding the conduct and performance of the LAPD. The OIG is separate and independent from the Department and reports directly to the BOPC. The OIG is made up of approximately 35 full-time, professional investigators and auditors, as well as administrative support staff. The LAPD is the only agency among the selected departments that has an Inspector General dedicated to overseeing the operations of the police department, and specifically use of force investigations.³⁸

Under the City Charter, the OIG has the authority to initiate any audit or investigation of the LAPD without prior approval of the BOPC, and it has guaranteed access to all Department information and documents.³⁹ Additionally, the BOPC may direct the OIG to conduct an audit or investigation on a particular issue. In addition to reviewing the Department's audits and complaint investigations of police officer misconduct, the OIG conducts its own performance-related audits and other investigations on topics of particular importance to the BOPC and public.

The OIG is also responsible for reviewing all investigations of OIS incidents and other categorical uses of force. The OIG's oversight of categorical use of force investigations begins with an OIG response to the scene of the incident to monitor the on-scene investigation, and it continues throughout the investigation and review process until the case goes to the BOPC for final adjudication. The OIG provides the BOPC with an independent analysis of both the investigation and analysis done by the Department, along with recommendations for the BOPC's adjudication of the incident.

2. Citizen Review Board/Citizen Oversight - DPD, LVMPD, and SDPD

Citizen Review Boards (CRBs) are typically independent boards comprised of volunteer members of the public who receive training in police department operations. CRBs are primarily responsible for reviewing complaints of police misconduct and, in some cases, serious use of force or in-custody death investigations. After reviewing an investigation, the board will vote either to agree or disagree with the determination made by the agency. This result is then usually made public and forwarded to the head of the agency for discipline, when appropriate. Most

³⁷ The BOPC is a five-member civilian panel that serves as the head of the Department and is responsible for overseeing the LAPD.

³⁸ The Office of the Inspector General for the District of Columbia conducts audits, inspections, and investigations of government programs and operations to, among other things, detect and deter fraud, waste, and mismanagement. This agency is independent of the MPD and has the authority to review investigations of MPD officer misconduct. This entity does not, however, ordinarily play a role in the oversight of serious use of force investigations. (Please see discussion on the Office of Police Complaints.)

³⁹ Los Angeles City Charter, section 573.

CRBs also provide policy recommendations to the departments they oversee. The DPD and SDPD have CRBs with 15 and 23 members, respectively, and these boards review all OIS investigations. The findings made by these CRBs, however, are advisory and not binding on the agency.

While the LVMPD does have a CRB, this entity only oversees allegations of officer misconduct; it does not oversee use of force incidents. The LVMPD does, however, include non-department, citizen members on its internal Use of Force Review Board. This board adjudicates all LVMPD serious use of force incidents, and these citizen members make up a majority of this board, holding four of the seven voting seats.

3. Office of Police Complaints - MPD

The Office of Police Complaints (OPC) is an agency within the District of Columbia government that reports to the Police Complaints Board⁴⁰ and is independent of the MPD. The OPC is staffed by approximately 20 full-time civilians and has the authority to receive complaints involving six types of officer misconduct: harassment, inappropriate language or conduct, retaliation, unnecessary or excessive force, discriminatory treatment (including allegations of biased policing), and officers failing to identify themselves. These complaints are then investigated by OPC staff, and the results are submitted to the MPD for disciplinary action, when appropriate. The Police Complaints Board, through the OPC, also conducts periodic reviews and makes policy recommendations to the Mayor, the City Council, and the MPD affecting the incidence of police misconduct, such as police officer recruitment, training, evaluation, discipline, and supervision.

Until recently, the authority of the OPC in the use of force process was limited to the investigation of specific complaints and making policy recommendations. Recent legislation, that became effective June 30, 2016, expanded the OPC's authority in this area. The OPC Executive Director has been appointed as a non-voting member on the MPD's Use of Force Review Board, which is the adjudicating body for all MPD serious use of force incidents. In addition, the legislation mandates that the OPC review and publicly report on all use of force incidents, including officer-involved shootings and deaths in custody, regardless of whether a complaint has been filed. While none of these new reports have been completed yet, it is anticipated that they will be detailed and include aggregate data, as well as more details on serious use of force incidents. This new use of force report will be separate from and in addition to the periodic reports currently issued by the OPC on its complaint investigations.

⁴⁰ The Police Complaints Board is made up of four members of the public and one member of the MPD. The Chief of Police makes a recommendation for the MPD member and all five members, including the MPD representative, are appointed by the Mayor and approved by the City Council.

4. District Attorney/U.S. Attorney Review and Other Public Oversight

For each of the selected agencies, the decision whether to prosecute an officer for a use of force is made by the local prosecutorial authority, either the District Attorney or U.S. Attorney's Office (through a Grand Jury process). For example, the Los Angeles District Attorney's Justice System Integrity Division (JSID) reviews all officer-involved shootings occurring within Los Angeles County where an officer shoots and injures or kills any person. According to JSID, the purpose of this review is to "accurately, thoroughly, and objectively investigate all relevant evidence and to determine the potential criminal liability, or lack thereof, of any party."⁴¹ This review begins with the response of JSID personnel to the scene of an incident and includes participation in the interviews of civilian witnesses and officers who provide voluntary statements. Once the investigation is complete, JSID personnel review and analyze all the evidence to determine whether the officer acted lawfully and whether criminal charges are appropriate. Where no charges are filed, JSID issues a closing report to the involved agency summarizing the results of the review, as well as the relevant findings and conclusions. This review by an independent agency serves as another layer of oversight for use of force investigations (criminal investigation only). Some of the selected agencies, including the DPD and SDPD, also report OIS incidents to the Federal Bureau of Investigation's Civil Rights Unit.

Additionally, the LVMPD participates in the presentation of fatal OIS incidents at a Police Fatality Public Fact-Finding Review. This review is initiated for all police-involved deaths when the District Attorney's Office preliminarily determines that no criminal prosecution of the involved officers is appropriate. At the review, the District Attorney's Office presents witnesses and makes a presentation of the essential facts surrounding the police-involved death. After this presentation, the presiding officer and ombudsman⁴² may ask questions, and members of the public may also submit written questions to the presiding officer. The presiding officer may ask the proposed questions, revise them, or decline to ask them if he deems them "redundant, irrelevant or an abuse of the review process." It is the job of the ombudsman to represent the public and the deceased's family in this proceeding. At the end of the review, no formal determination about the manner or cause of death is rendered since the purpose of the review is simply a public airing of the facts. The proceedings are aired on Clark County Television (CCTV) and streamed live online, as well as recorded and made available for replay at a later date.

VII. USE OF FORCE TRAINING

Both recruit and in-service officers receive a variety of training in use of force tactics and firearms. Each department has overall training requirements mandated at the state and

⁴¹ Protocol for District Attorney Officer-Involved Shooting Response Program for Officer/Deputy-Involved Shootings and In-Custody Deaths, Los Angeles District Attorney's Office (January 2014).

⁴² Presiding officers and ombudsmen are selected by the County Manager from lists approved by the County Commission.

department levels, a portion of which is dedicated to use of force training (specialized units within an agency may also have their own training requirements). The minimum training standards for each agency are set by a statewide commission, typically involve a one- or two-year cycle, and can range from 24 to 40 hours of minimum training.⁴³ Many officers also receive additional use of force training throughout the year from their respective departments. For the purposes of this report, the OIG chose to focus its review of training on use of force tactics (including firearms) for in-service officers assigned to general patrol functions.^{44, 45} What follows in this section is a description of the use of force training provided at each of the selected agencies, with a focus on de-escalation curriculum and reality-based training, as well as a description of each agency's firearms qualification requirements and procedures.⁴⁶

A. In-Service Use of Force Training

All the selected agencies require in-service officers to complete periodic use of force training. This training typically includes a number of different topics and is delivered using a variety of methods. These methods include: computer-based (e-learning), classroom lecture and group discussions, simulators (e.g., Force Option Simulator), and reality-based training. The agencies included in this report use each of these methods for at least some of their training, although not all of these different types are covered in this report. Additionally, each of the selected agencies indicated that they periodically update and revise their use of force training curriculum to address current trends and emerging training needs. The training described in this section is the training currently being provided by each agency.

Each of the five agencies featured in this report provide some form of reality-based training. For the purposes of this report, "reality-based training" refers to live-action training where officers interact with role players in scenarios based on circumstances officers are likely to encounter in the field. For each scenario, participating officers must make tactical decisions based on the information they are given about the call and the role player's actions. Training staff then

⁴³ Every two years, California requires officers to complete 24 hours and Texas requires 40 hours of training. By contrast, every year, officers in Nevada and the District of Columbia must complete 12 hours and 32 hours of training, respectively.

⁴⁴ Aside from recruit officers, who receive use of force training in the academy, officers assigned to specialized units (e.g., gang enforcement, narcotics, vice) may also receive use of force training, but this training is more varied among the agencies.

⁴⁵ While this section of the report focuses on the use of force training administered to in-service patrol officers, it should be noted that each of these agencies also provide a variety of training in other areas that impact use of force, such as training related to interactions with individuals with mental illness. This type of training varies to a greater degree between agencies in terms of the content, quantity, and officer participation, which makes a comparison difficult.

⁴⁶ For the purposes of this report, "reality-based training" refers to live-action training where officers interact with role players in scenarios based on circumstances officers are likely to encounter in the field. This type of training is also sometimes referred to as "force-on-force" training.

provide feedback on that decision-making and the tactics employed. To make these scenarios more realistic, the training also involves props (such as vehicles or simulated weapons) and staged settings (e.g., on a street corner, in a living room). Some of the agencies also use “simunitions” (i.e., paint ammunition) or other technology so officers are able to know whether the rounds they fire hit the suspect and vice versa.

1. LAPD

The LAPD has several training courses that discuss de-escalation concepts and tactical skills, such as communications and the use of less-lethal weapons, which may be used to de-escalate tense situations. For this report, the OIG chose to highlight two training courses for patrol officers that not only discuss the tactics that may be used to de-escalate an incident, but these courses also teach officers to approach all incidents with the strategic goal of de-escalation and using the least amount of force feasible. These courses are the Use of Force Update and the Law Enforcement Tactical Application Course (LETAC). The first course was developed and implemented in 2015, while the second course has been used by the Department since 2000. Both of these courses are provided by the LAPD’s Training Division.

Other LAPD training programs that contain use of force-related training include, but are not limited to, the Police Sciences and Leadership program and the Perishable Skills Consolidation course. The first phase of the Police Sciences and Leadership program began in September 2015, and includes training in use of force philosophy, use of force mindfulness, and tactical incidents, among other topics.⁴⁷ The 24-hour Perishable Skills Consolidation course was recently revised and will begin as a pilot program.⁴⁸ This course is intended to satisfy the statewide minimum training standards set by the California Commission on Peace Officer Standards and Training (POST).⁴⁹ Based on a review of the course curriculum, it appears that this program will include training on de-escalation techniques, as well as scenarios that can be used in either a reality-based training or classroom discussion format.

⁴⁷ The Police Sciences and Leadership program is a three-phase program aimed at developing “empathetic, relationship-focused police officers who solve long-term community problems while building public trust.” The first phase includes officers who are 18 months into their career, the second phase is provided after 3 years, and the third phase is for officers who have 5 years of experience.

⁴⁸ The first pilot course was completed in August 2016. The Department will be conducting another pilot at the Bureau level (Operations Valley Bureau) to determine how easily it can be replicated in a decentralized form. At this point, the pilot format will not be mandated Department-wide; however, trainers at the Bureau level will be trained in this format so that they can opt to use it in their respective programs.

⁴⁹ California POST sets minimum selection and training standards for California law enforcement agencies. POST requires all peace officers of the rank of lieutenant and below who routinely affect the physical arrest of criminal suspects to complete a minimum of 14 hours of training in perishable skills and communications every two years. These 14 hours of training include a minimum of 2 hours in communications training (either tactical or interpersonal), and 4 hours of training in each of the following categories: arrest and control, driver training/awareness or driving simulator, and tactical firearms or Force Options Simulator. Another 10 hours of Continuing Professional Training is also required during this period.

Each division within the Department has substantial autonomy in deciding what types of additional training to provide to officers under that command. While some use of force training may be provided at this level by a divisional training coordinator, there are no specific requirements other than an annual Force Option Simulator qualification. As part of their firearms qualification, officers are required to complete training using the Force Option Simulator once per year (in addition to the live fire qualifications).⁵⁰ This training consists of video scenarios projected onto a screen with interactive simulation weapons. The scenarios used can be “shoot” or “no-shoot” situations and are based on common encounters officers have in the course of their duties, such as traffic stops, domestic violence incidents, robbery-in-progress calls, or encounters with an armed person with mental illness. The facilitator can even modify the course of the scenario based on the officer’s responses. This training tests not only the officer’s tactics, assessment, and decision-making skills in a dynamic environment, but also the ability to articulate those decisions and actions.

a. Use of Force Update

The Use of Force Update is a 10-hour course developed and implemented in late 2015 and is required for all sworn officers. As of September 27, 2016, a total of 5,621 officers had completed the training (approximately 57% of all sworn officers). Once all field personnel have attended the training, the next phase will include all specialized divisions and sworn personnel in administrative assignments. The Department anticipates that all sworn officers will complete the course by the end of the first quarter in 2017. At this time, the training is a one-time session and the Department has no plans regarding its continuation past the 2017 completion date.

The Use of Force Update combines classroom lecture and group discussions with practical application and reality-based training. The topics covered during the classroom portion include the use of force policy, constitutional policing concepts (i.e., consensual encounters, reasonable suspicion, and probable cause), less-lethal force options (i.e., OC spray, TASER, and beanbag shotgun), public perception, de-escalation, tactical communication, duty to intervene (where another officer’s force is inappropriate or unlawful), command and control, and the seven elements of marksmanship.

This course also includes a force option deployment rotation where officers practice spraying OC spray, firing a beanbag shotgun round, activating a TASER, and basic firearm manipulations. Finally, officers participate in reality-based training using iCombat equipment (a simulation firearm and stress vest that sends a small electric shock when hit by the firearm’s laser). These scenarios are dynamic such that the role player can react and change behavior based on the officers’ decision-making. Following each scenario, the officers articulate what they did and their reasoning for their actions (based on Department standards and training), then training staff provide feedback on those decisions and tactics. Additionally, the officers are asked how their

⁵⁰ Each of the geographic areas has a Force Option Simulator that can be utilized for training in addition to the annual qualification.

actions reflect the Department value of “preservation of life” (e.g., requesting an ambulance, using de-escalation techniques). The six scenarios used in this rotation include the following:

- Person with mental illness (unarmed)
- Suicidal person (armed with a knife)
- Possible burglary from a motor vehicle suspect (unarmed)
- Possible battery suspect (armed with a firearm)
- Robbery in progress (two suspects, one armed with a firearm)
- Domestic violence call (victim is present, suspect is armed with a knife)

(1) De-Escalation Concepts

De-escalation concepts are discussed both during the classroom portion of the program and as part of the reality-based training. The classroom segment includes a series of videos followed by a discussion of what de-escalation tactics were utilized in each situation. Many of the reality-based training scenarios involve de-escalation tactics, but two in particular, both involving a person with mental illness, focus more specifically on these concepts. In the first scenario, officers are responding to a call of a person walking in traffic, causing vehicles to stop. When they arrive, they encounter a person who is yelling at passing vehicles, talking to himself, and somewhat unresponsive to the officers. The officers must use tactical communication techniques, as well as good tactics (keeping distance, using cover, calling for additional resources), to de-escalate the situation and take the person into custody without using force. In this scenario, the suspect will not present a deadly threat.

The second scenario involves a call of a suicidal person armed with a knife. When the officers arrive, they observe a person with a knife that appears to have cut her wrists. Additionally, she appears despondent, suicidal, and uncooperative. Again, the officers must use tactical communication techniques to attempt to de-escalate the situation, while at the same time maintaining good tactics (i.e., using distance, cover, and containment). The suspect in this scenario does not present a deadly threat but also does not comply with orders to drop the knife. Accordingly, officers are expected to use less-lethal force options to take her into custody.

b. Law Enforcement Tactical Application Course (LETAC)

LETAC is a 32-hour program designed for patrol officers to enhance performance and provide updates on current trends related to tactics and use of force options. The commands at each geographic area and traffic division can send one officer for each class. This is a more extensive course than the Use of Force Update and, based on the unit’s current resources, only 350-450 officers, on average, are able to complete LETAC each year.⁵¹ Approximately 48% of all

⁵¹ This range represents an average of 20-22 classes per year with approximately 17-20 students in each. Each year, two classes are for sergeants only (these classes focus on supervisory oversight and command-and-control of tactical incidents), and two classes are designated as extensive retraining sessions for officers who have received an

current officers in the Department have completed the course at some point during their careers (and some have attended more than once).

LETAC combines classroom lecture and facilitated group discussions with live fire, the Force Option Simulator, and reality-based training. The topics covered during the classroom portion of the course include the use of force policy, firearms basics, arrest and control tactics, foot pursuit concepts, and officer safety/survival. Practical drills at the firing range include clearing pistol malfunctions, shooting on the move (handgun and shotgun), live fire tactical scenarios (which test both decision-making and firearms proficiency), and backup weapons. Other practical drill topics include arrest and control techniques, building entry and searches, vehicle pullover, foot pursuit, and weapon retention. Many of these drills are preceded by short lectures introducing the topic and key concepts. Finally, officers complete a rotation of five reality-based training scenarios, which include a vehicle pullover, pedestrian stop of a person with mental illness, robbery in progress, suicidal person, and foot pursuit. Following each scenario, Training staff conduct a debriefing where the officers must articulate their decision-making and the trainers provide feedback on the officers' explanations and tactics.

(1) De-Escalation Concepts

Like the Use of Force Update, de-escalation concepts are discussed in LETAC during both the classroom portion of the program and as part of the reality-based training. The classroom segment on the use of force policy includes case study discussions where participants are given a scenario (e.g., domestic violence incident) and must describe the actions they would take to resolve the situation. This discussion includes not only articulating the appropriate tactical considerations and justification for using force, but also the actions they would take to de-escalate the situation. Additionally, LETAC includes training on the Force Option Simulator. As discussed previously, the scenarios used in this training can be modified based on the officer's responses, and some of the scenarios used in LETAC focus on de-escalation concepts. After each scenario, officers must not only articulate what actions they took and why, but also what the tactical considerations were and what communication skills were utilized.

Finally, de-escalation concepts are tested in the LETAC reality-based training scenarios. All of these scenarios are formulated in such a way that if officers use sound tactics and properly employ de-escalation techniques, they will not need to use deadly force to resolve the situation. Two of the scenarios that place even greater emphasis on de-escalation skills are the ones involving a suicidal person and a pedestrian stop of a person with mental illness. In the first scenario, officers observe a man attempting to commit suicide with a knife. Officers are expected to observe the weapon, maintain good distance and cover, and use verbal skills and command presence to get the suspect to comply. If they do not use sound tactics, the suspect will arm himself and advance on the officers. The second scenario involves the officers

contacting a homeless person with a backpack in a park at nighttime (when the park is closed). In addition to articulating reasonable suspicion for the stop, officers are expected to use verbal skills to get the suspect to comply and to conduct a search of the suspect's backpack. If the officers do not properly search the suspect, the suspect will arm himself with a weapon inside the backpack.

2. De-Escalation Concepts and Reality-Based Training at Other Agencies

Like the LAPD, the other selected agencies also provide use of force training to their in-service officers using a variety of methods. This section describes the frequency of this training for officers at all of the different agencies and provides details about the training related to de-escalation concepts and reality-based training. At all of the agencies reviewed for this report, de-escalation concepts are addressed both in a classroom setting and as part of the reality-based training. The next section includes just a few examples from the selected agencies; it does not cover all use of force training provided by these agencies nor does it include every training unit that touches upon de-escalation concepts.

a. Dallas Police Department

Dallas officers are required to attend a full day of reality-based training either every year for patrol and specialized uniformed units or every two years for non-patrol assignments. Additionally, all officers must also complete a 40-hour training course (which includes a day of reality-based training) called CORE every two years.

As part of the CORE classroom curriculum, a unit called Crisis Intervention Communication provides information about active listening skills, which builds into the tactical concepts of time, cover, and distance. DPD's reality-based training uses simunitions and includes two sets of three scenarios where officers must assess the situation and employ good tactics (including de-escalation skills) to resolve the incident. The tactical concepts of time, distance, and cover are emphasized in all of the scenarios. Additionally, each scenario is followed by a debriefing by the training staff. The officers must articulate the rationale for their actions, and then the trainer provides feedback about their tactical decision-making and explores other possible actions they could have taken.

The first set of these live-action scenarios involves a person armed with a knife and takes place in a dead-end alley (this limits the movements of both the suspect and the officers). In each individual scenario, the person is in a different emotional state and takes different actions toward the officers:

Scenario 1: The person is suicidal but does not pose a threat the officers (this primarily tests verbalization skills).

Scenario 2: The person is agitated and advances on the officers after dropping the knife (in addition to verbalization skills, this tests physical force tactics and/or less-lethal force options).

Scenario 3: The person is aggressive and advances on the officers with the knife (this is a lethal force situation).

The second set of scenarios is similar to the first but the person is holding different objects. The officers must assess the objects, as well as the person's emotional state, and then respond to the person's actions:

Scenario 1: The person enters talking on a cell phone with one hand in his pocket (this tests the officers' situational awareness and reminds them that sometimes no action needs to be taken, even during training).

Scenario 2: The person enters with a long pole and appears injured (the officers are expected to make contact but not use any force).

Scenario 3: The person enters with a shovel, appears to be having delusions, and acts aggressively towards the officers (this mainly tests verbalization skills).

b. Las Vegas Metropolitan Police Department

All patrol officers at the LVMPD are required to complete four hours of reality-based training twice a year, and all officers of the rank of sergeant and below must complete eight hours of Advanced Officer Skills Training once a year.

The Advanced Officer Skills Training program includes a classroom lecture and discussion on de-escalation concepts. This unit explores when officers should take immediate action versus when they should attempt to de-escalate the situation. Using hypothetical scenarios, the facilitator takes the class through the analysis of whether the threat is "immediate" and who is creating the threat (the officer or the suspect). This leads to a discussion of how planning, time, and resources can be utilized by officers to successfully de-escalate a situation.

The LVMPD's reality-based training includes a scenario involving the use of de-escalation tactics during a traffic stop. When officers stop the vehicle, the driver exits and begins acting aggressively toward the officers. The officers must try to use verbalization skills to calm the driver down and prevent him from reentering his vehicle. If the suspect continues being aggressive, the officers will use physical force and possibly less-lethal force to take him into custody.

c. Metropolitan Police Department

The MPD's Professional Development Training program is administered every two years, and all officers are required to complete the 40-hour course. During years that this program is not administered, officers must still complete 40 hours of training in various areas.

As part of the classroom portion of the Professional Development Training program, the unit titled De-escalation and Communication provides an overview of de-escalation, communication strategies, critical thinking, problem solving, and ethical decision-making. This presentation is then followed by group exercises where participants must describe how the concepts covered in the lecture are applied to a series of video scenarios.

MPD's reality-based training takes place in the MPD's Tactical Village. This training facility, used for both recruit and in-service training, includes a variety of settings for the scenario training (including a school, office, police station, streets with intersections, alleyway, apartments, convenience store, stairwell, etc.). Above these settings is a catwalk that allows observers to watch the live scenario training, and the facility also has video recording capabilities. Prior to beginning the scenarios, the trainers review the relevant concepts for officers to keep in mind when approaching a situation. This includes the use of force policy; the importance of distance, cover, and planning; and scene assessment and control (both of the suspect and the area).

The MPD's current training scenarios cover a number of different topics, but two of the scenarios in particular test tactical skills related to de-escalation. In the first of these scenarios, officers respond to a call involving a domestic dispute. The officers must separate the parties and use verbalization to resolve the situation. The second scenario involving de-escalation concepts is one in which officers encounter a suspect holding a knife standing over a stabbing victim. The officers must use time, distance, and tactical communication to disarm the suspect and take him into custody, as well as render aid to the victim. Each of these scenarios includes bystanders, with at least one of them recording the incident on a cell phone. De-escalation tactics must also be employed here to respond to the bystanders' actions when they try to interfere with the officers.

In addition to the realistic settings of these scenarios, the key to this training is the thoroughness of the debriefing after the scenario is completed. The officers are told to start from the beginning and reenact the whole scenario while articulating what actions they took and why. As the officers move step by step, the trainers ask additional questions and provide feedback on the officers' decision-making.

d. San Diego Police Department

The SDPD's Crisis Response Team training, which includes significant training on de-escalation concepts and reality-based training, is administered at the end of the academy for new police

officers, as part of the supervisor training for newly promoted sergeants, and to other officers as space allows. There is also a refresher course available for officers who have already gone through the program, which consists of more complex scenarios for the reality-based training.⁵² Additionally, all SDPD officers are required to complete 40 hours of Advanced Officer Training every two years, which covers a variety of topics.

The classroom segment of the Crisis Response Team training includes presentations on de-escalation techniques (such as communication, building rapport, and active listening) and first responder crisis negotiations. The reality-based training tests the officers in working as a team in responding to and resolving three different tactical situations. In the first scenario, officers respond to a domestic violence incident where the suspect, who is armed with a firearm, has barricaded himself in a residence with two adult children. The officers must work as a team to set up containment (the residence has multiple exits), gather information (about the location and the suspect), and create plans for not only getting the victims out of the residence safely but also taking the suspect into custody. After negotiating with the suspect, he finally exits the residence and the officers must use commands, and potentially less-lethal force, to take him into custody.

For the second scenario, officers conduct a traffic stop of a vehicle with multiple occupants. As the scenario progresses, the driver exits and communicates to the officers that there is a baby in the backseat and that the passenger is suicidal. Once the officers observe that the suspect in the car is armed with a knife, they must work as a team to set up containment and communicate with the suspect. Once the suspect exits, he is taken into custody using less-lethal force. The final scenario involves a suicidal person, armed with weapons, who returns to an office after being fired the previous day. This is the only scenario that uses simunitions. The suspect is visibly armed with a knife but also has a firearm concealed in his waistband. When the officers use sound tactics (including using cover, distance, and tactical communications), the suspect complies with commands to drop the knife and surrenders.

This reality-based training is somewhat different from the other departments in that the trainers facilitate the scenarios rather than waiting until the end to give the officers feedback. At different points as the scenario is progressing, the trainer asks the officers about their plan and next steps. Based on the response, the trainer asks questions to probe alternative approaches or considerations, as well as make suggestions about the right course of action. The trainers also conduct a debriefing at the conclusion of the scenario, similar to what is done by the other agencies.

B. Firearms Qualifications

All agencies require officers to periodically qualify with their primary firearms (agencies also have qualifications for shotguns, rifles, less-lethal weapons, etc.). The LAPD and LVMPD

⁵² Officers are selected by their commands to attend this refresher course, and it has been provided once since the program began. The goal of this course is to train officers on emerging topics, and to cycle all SDPD officers through the program on a continuing basis, as resources allow.

require most officers (lieutenants and below) to qualify with their primary firearm four times a year, and command staff must qualify twice a year.⁵³ SDPD officers must complete three department shoots each calendar year; one is scored as the qualification shoot and the other two are training shoots only. MPD officers must qualify twice a year, and DPD requires one qualification each year.

The qualifications at each of these agencies emphasize different concepts, including assessment time between rounds (to determine whether the threat is still present), moving to cover prior to firing, shooting on the move, and shooting in different lighting conditions. Both the LAPD and DPD recently added time to each stage to encourage assessment between rounds, and the final stage for both also requires officers to step to “cover” before firing. The qualification courses for both the LVMPD and MPD include a shooting on the move exercise, and the MPD course also includes shooting in both daylight and low-light conditions.

When officers fail to qualify with their firearms, each agency has a different protocol. According to the Department, if an LAPD officer fails to qualify after three successive attempts, the officer is placed on a list to receive remedial firearms training. The officer may continue trying to achieve a qualifying score during the two-month qualification period. If the officer is still unable to qualify after remedial training, the officer’s commanding officer is notified, but the officer is permitted to continue working in the field. The commanding officer has the discretion to determine what action to take as a result of the failure to qualify, which may include initiating a personnel complaint that could result in disciplinary action.

Like the LAPD, the other agencies allow officers who fail on their first attempt to try again. LVMPD officers are given a maximum of two attempts in any given 24-hour period, and a total of eight attempts in any quarterly qualification period. SDPD officers are given a total of five opportunities on the same day to achieve a qualifying score, MPD officers can try up to three times (assuming time permits at the range that day), and DPD officers are given two attempts at qualifying.

Once an officer at these other agencies exhausts these repeated attempts, the officer is no longer permitted to work in the field. In San Diego, the officer is removed from the field and placed on a performance plan with mandatory remedial training. Officers at the DPD are not only placed in a remedial training program, but they are also immediately disarmed. Similarly, LVMPD officers who fail to qualify are prohibited from carrying a firearm and assigned to duties not requiring the use of a firearm until such time that they have successfully qualified. Finally, MPD officers who fail their qualification have their police powers revoked until they are able to qualify. They are also sent for a fitness for duty examination, followed by remedial training.

⁵³ This applies to LAPD officers with less than 20 years of service. LAPD officers with 20-29 years of service are required to qualify only twice a year, and officers of any rank with 30 years or more of service are required to qualify only once every calendar year.

VIII. RECOMMENDATIONS

As noted in the body of this report, the LAPD is currently in the process of revising its use of force policy. The proposed use of force policy language developed by the working group is now in the meet-and-confer process. Once that process is complete, the BOPC will be presented with proposed language for its consideration. As this process is in progress, the OIG has no specific recommendations in this area at this time.

In the course of preparing this report, the OIG presented its findings to Commissioners Matthew Johnson and Sandra Figueroa-Villa. Based on the OIG's presentation and concurrence, Commissioners Johnson and Figueroa-Villa make the following recommendations for the full Commission's consideration:

1. The Department shall review its processes for returning officers to the field following a categorical use of force incident to determine whether additional assessment and/or training should be provided. The Department shall determine ways that the General Training Update (GTU) can be expanded and/or enhanced to improve the training benefits and impact upon officers, including adding a reality-based training component to the existing training. Additionally, this training must be provided to officers before returning them to the field. The Department shall report back to the Commission with its findings and a plan for implementation within 90 days.
2. The Department shall develop a plan for providing increased information and support to officers involved in a categorical use of force incident throughout the course of the investigation and final adjudication. This plan shall be presented to the Commission within 90 days.
3. The Department shall provide a detailed presentation to the Commission in 90 days on each of the different LAPD use of force trainings. For those trainings that include de-escalation concepts, this presentation should also describe the extent to which officers are taught to approach incidents with the strategic goal of de-escalation and how tactical skills, such as communications or the use of less-lethal weapons, may be used to achieve this goal, as well as the goal of resolving incidents with the least amount of force feasible. This presentation shall also include a comparison of LAPD training to use of force training provided by outside agencies.
4. The Department shall explore additional ways to expand its use of reality-based training in existing training, especially for those that address de-escalation concepts and strategies. The Department shall then develop a plan for delivering reality-based training to officers on a regular basis, and this plan shall be presented to the Commission within 90 days.

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5. To facilitate implementation of this plan for increased reality-based training, the Department shall ensure that all vacant personnel positions in the Police Training and Sciences Bureau are filled. The Department shall report back to the Commission every 45 days until all vacancies are filled.
6. The Department shall also ensure that all Training Coordinator and Assistant Training Coordinator positions are filled and report back to the Commission every 45 days until all these vacancies are filled.
7. The Department shall determine what additional information regarding uses of force, including officer-involved shooting incidents, can be released to the public in an expedited fashion and develop a protocol for ensuring the accuracy of the information released. The Department shall present this protocol to the Commission within 90 days.
8. The Department shall initiate, in conjunction with the Commission and the OIG, the development and implementation of a comprehensive process to receive input on a video release policy for categorical use of force incidents, to include, at a minimum, the following components: (1) Facilitating community forums across the City, at locations and times that will allow for greater participation and input; (2) Creating an online questionnaire; (3) Conducting focus groups with officers, to include delegates and representatives of the Los Angeles Police Protective League Board of Directors; and (4) Posting a draft policy online for at least 30 days and creating a web-based portal to receive written comments. The Department shall work with the Commission and the OIG to identify a college or university to help design and implement the online questionnaire and assist with facilitating the community forums and officer focus groups. Further, the Department shall work with the OIG to produce a report on the community feedback and process, explaining how the feedback was reflected in the revised policy, or why it was advisable for the Department to proceed otherwise, within 120 days of the conclusion of the public input process. The Department shall provide a status report to the Commission every 30 days on the progress of this item.
9. The OIG shall conduct a comprehensive report on the Department's weapons qualification guidelines and Failure to Qualify policies and report back to the Commission within 90 days.



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ADDENDUM TO MEMORANDUM OF UNDERSTANDING PROTOCOL FOR DISCLOSURE OF OFFICER INVOLVED SHOOTING VIDEO EVIDENCE

The parties to this agreement recognize that releasing video evidence of officer involved shooting (OIS) incidents can aid the public in understanding how and why these incidents occur, increase transparency and build public trust in law enforcement.

Law enforcement leadership in San Diego County agrees it should be the practice in most situations to release video in officer-involved shooting cases whenever possible, as soon as it's appropriate to do so. Law enforcement is also committed to prioritizing and expediting the investigations and District Attorney reviews of officer involved shootings.

At the same time, other considerations such as due process requirements, the integrity of law enforcement's investigation and review, privacy of those involved and public safety concerns must also be considered in determining how and when to release such video evidence. The legal rights of all parties involved must be protected, but balanced with the public's desire to view this kind of video.

The default position will be to release OIS-related video evidence.

However video evidence will not be released:

- (1) Until the District Attorney's independent review of the incident has been completed and the findings have been provided to the law enforcement agency involved.
- (2) If a criminal proceedings related to the officer involved shooting incident are pending. Such criminal proceedings could include any criminal charges filed against a person involved in an officer involved shooting or a case where a peace officer was charged. (When criminal cases are filed, video would likely become public when it's entered into evidence.)

Once the District Attorney's Office has issued its written findings and completed any review related to criminal prosecutions, the release of law enforcement video evidence will be made by the District Attorney's Office.

Prior to the release of any law enforcement video evidence, involved law enforcement agencies and officers will be notified.

Recognizing that the release of these often graphic videos is sensitive for all affected parties, the videos may be edited in the following ways:

- 1) For privacy and safety concerns, the faces of the officers, witnesses, and the person shot will be blurred out. Other distinctive identifying features may also be rendered unidentifiable.
- 2) The segments of the video relevant to the review, legal analysis and decision of the District Attorney will be identified. Only those portions of the video related to the DA's decision of whether or not a crime has been committed will be released.

In order to provide a consistent manner of release countywide, the District Attorney's Office will manage the release of OIS related law enforcement video to the media. To provide appropriate and important context related to an officer involved shooting, the District Attorney's Office will make a public statement and release the results of the DA's review at the same time the video is released.

The video evidence released is exempt under the California Public Records Act and law enforcement's decision to release certain portions of the video evidence does not otherwise waive that privilege.

While this policy will generally result in the release of the relevant portions of law enforcement video, there may be instances where the video is not released. The District Attorney has a legal and ethical duty not to do anything that would jeopardize the integrity of an investigation or prejudice a potential criminal case.

Exceptions may be made to this policy in the interests of justice and public safety.
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ADDENDUM TO MEMORANDUM OF UNDERSTANDING
PROTOCOL FOR DISCLOSURE OF OFFICER INVOLVED SHOOTING VIDEO EVIDENCE

TERM OF AGREEMENT

The parties, evidenced by their signatures hereto, agree that this addendum shall be effective upon approval and shall remain in full force and effect until any party withdraws from participation or a revised version is established.

Agreed hereto by all parties whose signatures appear below:

Agency
