

LOS ANGELES POLICE COMMISSION

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



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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In November of 2015, the Los Angeles Board of Police Commissioners (BOPC) instructed the Office of the Inspector General (OIG) to prepare a report comparing the Los Angeles Police Department's (LAPD) use of deadly force to other large agencies in the country. The OIG worked with the BOPC to determine which cities to include in this review. The cities were chosen based on a number of factors including city population; department size; use of force publicity/history; and recent changes/improvements in use of force policies, investigations, and training. The following four major cities were ultimately selected: Dallas, TX; Las Vegas, NV; San Diego, CA; and Washington, DC.

The BOPC requested that the OIG provide this interim report with a summary of the information gathered thus far. The final report will provide a more in-depth review of the use of force policies, investigations, and training from all four cities. The purpose of the final report is to provide a basis for an informed discussion of the LAPD's use of force, as well as provide an overview of what other agencies are doing to reduce their uses of force.

Use of Force Policies

A number of police agencies across the country have use of force policies that require officers to attempt de-escalation in situations where it can be accomplished without risk to the officer or potential victims and/or exhaust all reasonable alternatives prior to using deadly force (when feasible). Some of these agencies include the Dallas Police Department, Denver Police Department, Las Vegas Metropolitan Police Department, Los Angeles County Sheriff's Department (LASD), Philadelphia Police Department, San Antonio Police Department, and Seattle Police Department.¹ Aside from the LASD, these departments all have between 1,300 and 6,500 sworn officers (LAPD currently has approximately 9,900 sworn officers).

¹ Although the Seattle Police Department was not part of this review, the OIG included its use of force policy for the purposes of this discussion. After entering into a settlement agreement with the DOJ, the Seattle Police Department adopted a new use of force policy in 2013. This policy contains a de-escalation requirement:

“De-escalation tactics and techniques are actions used by officers, when safe and without compromising law enforcement priorities, which seek to minimize the likelihood of the need to use force during an incident.

When safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution.

When time and circumstances reasonably permit, officers shall consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to: Medical conditions, Mental impairment, Developmental disability, Physical limitation, Language barrier, Drug interaction, Behavioral crisis.

An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

Las Vegas Metropolitan Police Department

In 2011, the Las Vegas Metropolitan Police Department (LVMPD) requested a review by the DOJ's Community Oriented Policing Services (COPS) Office of the department's policies and practices related to use of force. That review led to a number of significant changes to both the LVMPD's use of force policy and related training. The current use of force policy, adopted in June 2015, contains an entire section dedicated to 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 prospect of a favorable outcome is often enhanced when supervisors become involved in the management of an overall response to potential violent encounters by coordinating resources and officers' tactical actions. Supervisors should possess a good knowledge of tactics and ensure that officers under their supervision perform to a standard. As a good practice, supervisors will acknowledge and respond to incidents in a timely manner where law enforcement use of force is probable.”

Dallas Police Department

After a controversial officer-involved shooting in 2012, the Dallas Police Department implemented a number of policy changes and initiatives to improve both officer safety and public confidence. The department's use of force policy contains a section titled “Avoiding the Use of Deadly Force,” which states, in part: “At the point when an officer should reasonably

Mitigating the immediacy of threat gives officers time to utilize extra resources, and increases time available to call more officers or specialty units.

The number of officers on scene may increase the available force options and may increase the ability to reduce the overall force used....”

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.”

San Diego Police Department

The use of force policy for the San Diego Police Department focuses on the legal standards, both state and federal, that are applicable to force. This policy states, in part:

“In the performance of their duties, officers may encounter situations where the use of force is reasonable in order to effect a detention or arrest, to overcome resistance, or to protect themselves or others. Force, as authorized by Penal Code section 835a, and as set forth in this policy, may be used in those situations. The decision to use deadly force in response to an imminent threat of death or serious bodily injury to the officer or another person is one of the most critical decisions an officer will ever be called up on make. Only force that is reasonable to overcome resistance may be used to effect a detention or an arrest, or take a mentally ill or emotionally disturbed person into protective custody....”

Officer-Involved Shooting Investigations

At all three agencies visited by the OIG, OIS incidents are investigated and reviewed by two different entities within the department. One entity is responsible for the criminal investigation, which takes precedence, and a separate entity is responsible for the administrative review following the completion of the criminal investigation. Following an OIS, officers at all three agencies are automatically placed on administrative leave. The agencies had different procedures, however, for returning officers to duty, as well as different levels of support and information provided to the officers during the process. Finally, the agencies had different ways of incorporating “lessons learned” and other information from OIS incidents into individual and department-wide training.

Las Vegas Metropolitan Police Department

For LVMPD, the criminal investigation of an OIS is done by the Force Investigation Team, a unit dedicated to investigating uses of deadly force and other high-risk critical incidents resulting in death or serious bodily injury. The subsequent administrative investigation is conducted by the Critical Incident Review Team (CIRT) and culminates in a hearing by a Use of Force Review Board to determine whether the force complied with department policy. That finding is then forwarded to the sheriff for his final decision. The overall process is managed by the Office of Internal Oversight and Constitutional Policing (IOCP).

Following an OIS, LVMPD officers are automatically placed on administrative leave. Prior to returning to their regular assignment, involved officers are required to complete training and re-qualify with their firearms. During this time they also undergo two psychological evaluations (at a minimum): one immediately following the OIS and the second after they have completed their required return-to-duty training. Once the officer has completed all the required training and psychological evaluations, the department convenes a Return to Duty Board. This board has representatives from the investigative team, Internal Affairs, the officer's chain of command, and risk management, among others. Based on the results of the officer's training and psychological evaluations, as well as the information learned in the course of the investigation, this board determines whether the officer should return full duty, modified duty, or remain on administrative leave (this determination must then be approved by the undersheriff). This whole process takes approximately 2-3 months.

Immediately following an OIS, the involved officer is provided with a peer counselor from the Police Employees Assistance Program. The role of the peer counselor is to provide support and concern to the involved officer during the process, but the peer is prohibited from discussing the details of the incident with the involved officer. Officers are kept informed of the progress of the investigation and review process by IOCP personnel.

Finally, LVMPD has developed a system for incorporating lessons learned from OIS investigations into both training and policy. Training points can be specific to the involved officer or a training need department-wide. When CIRT identifies a training issue in the course of the administrative investigation, it is communicated to training personnel either for inclusion in the involved officer's return-to-duty training or for incorporation into the department-wide training curriculum. Similarly, when policy issues are identified, CIRT communicates those to IOCP for consideration and appropriate action.

Dallas Police Department

In Dallas, the criminal investigation of an OIS is conducted by the Special Investigations Unit within the Crimes Against Persons Division (this unit has other investigative responsibilities in addition to uses of force). Following the completion of the criminal investigation, the administrative review is conducted by Internal Affairs, which is also the entity that determines whether the force complied with department policy (with a report forwarded to the Chief of Police).

Similar to Las Vegas, Dallas officers are also automatically placed on administrative leave following an OIS, and must complete training and re-qualify with their firearms prior to returning to their regular assignment. Dallas officers attend three discussion sessions with Psychological Services: the first occurs within the first week of the OIS, the second occurs three months later, and the third occurs six months after the incident. Dallas officers are typically out of the field for 20-25 days, but that time period can be adjusted depending on the circumstances.

Following an OIS, an involved officer may choose a “companion” officer who was not involved in the incident to provide him or her with support and concern, but they may not discuss the details of the incident. The investigating entity is responsible for informing the involved officer’s chain of command regarding its progress, and the chain of command is responsible for keeping the involved officer fully informed on the status of the case.

Dallas also has a system for incorporating information from OIS incidents into training. Training personnel respond to the scene of an OIS and receive a briefing on the preliminary facts. Once training issues identified in a particular OIS are deemed unrelated to the criminal investigation, training personnel develop the return-to-duty training for the involved officers. This information may also be incorporated into the department-wide curriculum where such a need is identified.

San Diego Police Department

The San Diego Police Department’s Homicide Unit conducts the criminal investigation of all OIS incidents. The administrative review is then conducted by Internal Affairs, which is also the entity that determines whether the force complied with department policy (with a report forwarded to the Chief of Police). This administrative determination is also submitted to a Citizens Review Board, which can agree or disagree with the determination but cannot change the outcome.

Similar to other agencies, San Diego officers who are involved in an OIS are immediately placed on administrative leave. An involved officer typically returns to the field about two weeks after an OIS, but this time period may vary based on the individual circumstances.

Following an OIS, the involved officer will be assigned a peer support officer and a representative from the Wellness Unit will immediately make contact as well. Wellness personnel follow up with the officer again 72 hours after the incident, and periodically thereafter. Additionally, officers have access to psychological services, as well as spiritual and peer support through the Wellness Unit.

San Diego’s use of force training is based, in part, on information from actual OIS incidents. This information is gathered at two points during the process: on-scene immediately following the incident and at the conclusion of the investigation and review. Under a new protocol, training personnel will be responding the scene of an OIS to receive a briefing on the preliminary facts. This information will be reviewed to determine department-wide tactical training needs. Then at the conclusion of the process, the tactical information is forwarded to a Shooting Review Board (which has a representative from training), which examines it for lessons learned as well.

Use of Force Training

Use of force tactics are first taught to officers when they are in the academy, and those techniques continue to be refined and reinforced as officers continue in their careers. Use of force training for in-service officers can take many forms. Many agencies use classroom lecture or computer-based training formats (“E-Learning”) for at least some of their training. Some agencies have implemented Force-on-Force or Reality-Based Training (RBT) where role players (usually training staff) and “simunitions” (i.e., paint ammunition) are used to simulate real-life scenarios. These scenarios enable officers to practice various tactical skills and include a debriefing session at the conclusion of the scenario to review the officer’s performance.

Las Vegas Metropolitan Police Department

The Las Vegas Metropolitan Police Department (LVMPD) has two units responsible for use of force training: Advanced Officer Safety Training Unit (AOST) and RBT Unit. AOST is individual training, and all officers at the rank of sergeant and below assigned to patrol and specialized units are required to attend annually. RBT is team training where sergeants attend with their squads. This is required twice a year (if feasible) for all patrol and some specialized squads. Prior to returning to duty following an officer-involved shooting, the involved officers are required to participate in both AOST and RBT.

The curriculum for both AOST and RBT are changed annually, sometimes based in part on high-profile issues within the community or in the national spotlight. The current AOST training includes classroom lectures on 4th Amendment entries, recent legal updates, the use of force policy, de-escalation, and the impact of media/public perception on officers. The AOST also includes exercises where officers practice clearing their foreground and background prior to shooting at either a stationary or moving target to simulate engaging a threat in a crowd. A third exercise involves a traffic stop with an agitated subject to test officers on resolving the incident using de-escalation techniques and a minimal amount of force. The current RBT involves scenarios where officers practice room clearing/building searches as a team as well as an officer ambush scenario.

As part of the annual use of force training, LVMPD requires a minimum of four hours of de-escalation specifically. This training is incorporated into AOST, RBT, Defensive Tactics, Electronic Control Devices (ECD), or other mandatory training throughout the year.

Dallas Police Department

The Dallas Police Department also has two different avenues for use of force training: RBT and CORE Training. Patrol and specialized uniformed officers receive RBT annually; non-patrol officers receive RBT once every two years (at a minimum). Prior to returning to duty following

an officer-involved shooting, the involved officers are required to participate in RBT. All officers go through CORE recertification training once every two years (this is similar to the POST requirement in California).

The 8-hour RBT course contains multiple scenarios where officers are expected to practice de-escalation techniques. The first series of exercises involve variations of a person armed with a knife, with the person's behavior escalating between scenarios from withdrawn and despondent to aggressive. The second series involve a person holding different types of objects and acting either calmly or in an agitated manner. All of these scenarios test de-escalation methods as well as use of force tactics. This year's RBT also involves two additional scenarios, one active-shooter incident and one where a suicidal person is in a room armed with a firearm. Each scenario is followed by a debriefing session so the officers can discuss their performance and receive feedback.

CORE is a state-mandated, 40-hour class that covers many topics including, among other topics, police legitimacy and procedural justice, emotional fitness and positive mindset, situational assessment, search and seizure issues, personal bias and perspectives, defensive tactics, and crisis intervention communications. CORE also includes one day of RBT and one day of training at the range.

San Diego Police Department

The San Diego Police Department trains officers in use of force tactics through both Advanced Officer Training (AOT) and Crisis Response Team (CRT) training. Officers complete AOT every two years (this incorporates the mandated 14 hours of POST Perishable Skills training). CRT was initially developed to train specialized units who would respond to certain types of incidents (such as incidents involving individuals in crisis or armed with weapons other than firearms). The department later decided, however, to simply train all officers in these areas. This training is now delivered at the end of the academy for new officers and as part of the supervisor training for sergeants and lieutenants. There is also a one-day CRT refresher course for officers who already attended the training (this refresher uses more complex scenarios).

The curriculum for the 40-hour AOT course changes each cycle, and it often includes training relevant to national trends or high-profile use of force incidents. For example, this training focused on the Carotid Restraint Control Hold following the NYPD incident with Eric Garner. Topics in this current cycle include dog encounters and the use of the TASER.

CRT is also a 40-hour course and includes lectures and exercises on the following topics: recognition of individuals suffering from mental illness and techniques for de-escalating incidents involving them, legal considerations for use of force, crisis negotiations, team tactics, less-lethal force options, utilizing K-9 and SWAT resources, Force Option Simulator exercises, building searches, effective communication with dispatch, defensive tactics, restraint devices, etc.

Force-on-force scenarios are also used in CRT. The scenarios currently being used include a foot pursuit, traffic stop, suicidal person, vandalism suspect armed with a pole and a vicious dog, officer rescue with a barricaded suspect, and domestic violence suspect armed with a gun and possible victims in the location.

Extended Range Less-Lethal Tools

The OIG noted that a number of agencies have expanded the use of less-lethal tools to assist patrol officers in the field. Both the Dallas and San Diego Police Departments have invested in 40 mm launchers. Dallas recently purchased 125 launchers, and is in the process of developing less-lethal teams to speed up the response of less-lethal tools to incidents where they can be useful. San Diego has 2-4 launchers per station and they are usually carried in a supervisor's vehicle. In addition to 40 mm launchers, San Diego currently equips every vehicle with a beanbag shotgun and Dallas makes pepper ball weapons available to officers.

Next Steps

The OIG will be visiting the Metropolitan Police Department in Washington, DC, in mid-May. Following that visit, the OIG will prepare a final report evaluating all the departments in further detail for the Commission's consideration.