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Civil Rights Division

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DJ 207-12C-21

Special Litigation Section - PHB
950 Pennsylvania Avenue, NW
Washington, DC 20530

December 28, 2009

Via Federal Express and U.S. Mail

The Honorable Roosevelt F. Dorn
Mayor
City of Inglewood, California
One Manchester Blvd.
Inglewood, CA 90301

RE: Investigation of Inglewood Police Department

Dear Mr. Dorn:

As you know, on March 16, 2009, the Civil Rights Division initiated an investigation of the City of Inglewood, California Police Department ("IPD"), pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141"). We would like to take this opportunity to express our appreciation for the cooperation we have received thus far from the City of Inglewood, Chief Jacqueline Seabrooks, and the IPD.

To date, we have reviewed many relevant IPD policies and procedures, and conducted interviews with IPD command staff, a cross-section of IPD line officers and supervisors, members of the Internal Affairs Division ("IAD"), the Inglewood Police Management Association, the Inglewood Police Officers Association, community leaders, and other citizens. We have also conducted two site visits to IPD in July and September 2009, which included "ride-alongs" with IPD personnel.

At the beginning of our investigation, we committed to providing the IPD with technical assistance, where appropriate, to enhance IPD practices and procedures and to ensure compliance with constitutional rights. During our meetings with Chief Seabrooks and the IPD command staff in July and September 2009, we advised that we would provide in writing more specifics about recommendations our police practices experts had made orally. In this letter, we convey our recommendations regarding some of the IPD's written policies and procedures. Notably, as we advised Chief Seabrooks, important aspects of our review process have yet

to be completed, namely incident assessment. Therefore, this letter is not meant to be exhaustive, but rather focuses on recommendations we can provide at this stage of our investigation.

The technical assistance provided below was developed in close consultation with our police practices consultants and following the productive dialogue we had with IPD officers and Inglewood officials. While we present the technical assistance as recommendations, and not mandates, we strongly urge the IPD to consider adopting the recommendations as it revises its policies and procedures.

Additionally, we hope this letter will assist in our mutual goal of ensuring that the IPD provides the best possible police service to the people of the City of Inglewood. We look forward to continued cooperation toward this goal. We would be happy to provide examples of policies used by other departments.

I. POLICIES AND PROCEDURES

A. The IPD should revise and update its policies and procedures to be consistent and comprehensive.

Policies and procedures are the primary means by which police departments communicate their rules, standards, and expectations to their officers. Accordingly, it is essential that the IPD's policies be comprehensive, comprehensible, and consistent with current legal standards and contemporary police practices. As we discuss in detail below, several of the IPD's policies and procedures are inconsistent with generally accepted police practices and lack sufficient detail to provide the appropriate guidance for officer conduct.

The majority of the IPD's policies and procedures are outdated. It is our understanding that IPD is in the process of updating its policies, but has not finalized its policies. Accordingly, we base our recommendations in this letter on IPD's existing policies and not on policies currently under review. We applaud the IPD's initial efforts in updating these policies and recommend that any additional updates be made consistent with the feedback contained in this letter.

To ensure consistency and understanding, we recommend that IPD update all of its policies and distribute them to all of its officers. For many policies discussing major changes and/or issues, such as use of force and use of canine, all IPD officers should receive a substantive training session, instead of a

roll-call update. All officers should provide a written acknowledgment and signature of their receipt, review, and understanding of all IPD policies. This written acknowledgment should be maintained as part of the IPD officer's personnel file. In addition, we suggest that the IPD designate an individual with legal training to be responsible for reviewing any revisions to policies and, where necessary, to promptly notify command staff regarding changes in substantive law and ensuring that all IPD policies are consistent with each other (i.e., use of force policy and reporting use of force). This individual would also be responsible for ensuring that all officers receive complete copies of policy manuals and policy revisions, and for maintaining copies of officers' signed acknowledgments.

B. The IPD should review all proposed policies prior to implementation.

We are aware that the IPD has identified a consultant to purchase and adopt the consultant's policies as revised IPD policies. We learned that neither the City Attorney's office nor any internal counsel for the IPD routinely is reviewing the consultant's proposed policies to ensure that they are consistent with relevant legal standards. In addition, we were advised that the IPD is paying for the consultant's services with asset forfeiture funds, and that there is no contingency plan to allocate funding for the renewal costs for the consultant's services should asset forfeiture not yield enough revenue in the future. Because of the tenuous nature of payment sources, we caution IPD that it should not rely exclusively on a consultant for timely notice, changes, and updates in law enforcement legal standards and best practices. We also learned that the IPD has not considered, nor has it discussed with the consultant, issues concerning future indemnification.

The IPD should designate counsel to review the proposed policies to ensure that they are consistent with relevant legal standards. Further, the IPD should consider indemnification issues regarding the policies prior to purchasing them from a consultant. Finally, the IPD should develop a strategic plan that includes a contingency plan for the funding of the renewal costs of the consultant should it continue to rely on those services for ongoing policy development and review.

II. USE OF FORCE

The IPD should revise its use of force policies and adopt an appropriate use of force matrix.

In the course of duty, police officers are sometimes required to use deadly and less lethal force. Because the use of force can place officers, civilians, and subjects at serious risk of harm, it is incumbent upon law enforcement agencies to ensure that officers use force appropriately. Use of force policies and procedures must clearly set forth standards for appropriate use of force that are in accordance with constitutional standards.

A. Legal Standards Governing the Use of Force

Whether a particular use of force by an officer in the course of seizing an individual is constitutional is governed by the Fourth Amendment's objective reasonableness standard. Graham v. Connor, 490 U.S. 386, 394 (1989). Uses of excessive force by police officers in the course of arrests, investigatory stops, or other seizures are violations of the Fourth Amendment.¹ Id. The

¹ A seizure -- i.e., by means of physical force or show of authority -- is the event that triggers Fourth Amendment protections. See Crown Point Development, Inc. v. City of Sun Valley, 506 F.3d 851, 855 (9th Cir. 2007) (discussing United States v. Lanier, 520 U.S. 259, 396 n.10 (1997)). All claims of excessive force by law enforcement in the course of a seizure should be analyzed under the Fourth Amendment's reasonableness standard rather than a Fourteenth Amendment substantive due process approach. Fontana v. Haskin, 262 F.3d 871, 882 (9th Cir. 2001). The Constitution, however, affords Fourteenth Amendment Substantive Due Process protection from physical abuse by police officers for claims that are not susceptible to proper analysis under a different specific constitutional right -- e.g., an excessive force claim without a seizure to trigger a Fourth Amendment analysis. Sinaloa Lake Owners Ass'n v. City of Simi Valley, 882 F.2d 1398, 1408 n.10 (9th Cir. 1989) (holding "[a] plaintiff may still state a claim for violation of substantive due process where it is alleged that the government has used its power in an abusive, irrational or malicious way in a setting not encompassed by some other enumerated right." (overruled on other grounds by Armendariz v. Penman, 75 F.3d 1311 (9th Cir. 1996))). Similarly, once an arrestee becomes a pre-trial detainee, Fifth and Fourteenth Amendment Due Process protections, rather than the Fourth Amendment, are the appropriate constitutional basis for excessive force claims. Arpin v. Santa Clara Valley Transp.

analysis requires a balancing of the quality of intrusion on the individual's Fourth Amendment interests against the governmental interests. Graham, 490 U.S. at 396; Drummond ex rel. Drummond v. City of Anaheim, 343 F.3d 1052, 1056 (9th Cir. 2003). For example, in Graham, the Supreme Court found relevant to the facts and circumstances of that case involving an investigative stop of an individual hastily entering and leaving a store to include the severity of the crime at issue, whether the suspect presents an immediate safety threat to the officers or others, and whether the suspect is actively resisting or attempting to evade arrest. Graham, 490 U.S. at 396; See also, Drummond, 343 F.3d at 1057. Lack of specific policy guidance on the appropriate use of force may lead officers to believe that they are justified in using force in situations in which it would be unreasonable or unnecessary. Conversely, unclear or overly general policies may result in officers refraining from using necessary and appropriate force out of an unwarranted fear of using excessive force.

In another seminal deadly force case, the Supreme Court held that deadly force² is not reasonable when the suspect posed no immediate threat of serious physical harm to the officer or another person. Tennessee v. Garner, 471 U.S. 1, 11-12 (1985). Moreover, the Supreme Court held that deadly force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. Id. at 1. Yet, even in such circumstances, police may be required to provide a warning, if feasible, before using deadly force. Garner, 471 U.S. at 11; Haugen v. Brosseau, 351 F.3d 372, 381 (9th Cir. 2003). To be clear, although a subsequent Supreme Court clarified in Scott v. Harris, 550 U.S. 372 (2007) that Garner "did not establish a magical on/off switch that triggers rigid preconditions whenever an officer's actions constitute deadly force," Scott did not eliminate the relevancy of the facts and circumstances relevant to an objective reasonableness analysis for the use of lethal force under the Fourth Amendment. Indeed, in Scott, the suspect engaged police officers in a high speed pursuit after committing a traffic

Agency, 261 F.3d 912, 921 (9th Cir. 2001).

² In the Ninth Circuit, any force that "creates a substantial risk of death or serious bodily injury" is considered to be "deadly force." Smith v. City of Hemet, 394 F.3d 689, 693 (9th Cir. 2005).

infraction and such evasive action in a vehicle "posed an actual and imminent threat to the lives of any pedestrians who might have been present, to other civilian motorists, and to the officers involved in the chase." Id. at 384. Accordingly, the Supreme Court held that the pursuing officer's vehicular pursuit actions, which posed a high likelihood of serious injury or death to the fleeing suspect were reasonable under the Fourth Amendment. Id.

In addition, as a necessary component to the definition of "imminent threat," deadly force is permissible only for as long as the threat remains. When the threat is over, the use of deadly force must stop. United States v. Wehmhoefer, 14 Fed.Appx. 979, 980-81 (9th Cir. 2001) (finding victim's throwing scalding water on defendant police officer did not justify defendant's use of deadly force because there was no immediate or continued threat after the water was thrown); Oberfelder v. Bertoli, 67 Fed.Appx. 408, 410 (9th Cir. 2003) (holding that an officer cannot use deadly force where the suspect "poses no immediate threat to the officer and no threat to others." (quoting Garner, 471 U.S. at 11)). IPD's use of force policies, including the proposed consultant's use of force policies, do not comport with these legal standards in all respects. Accordingly, as discussed in further detail below, we recommend that the IPD revise its use of force policy to incorporate these constitutional standards.

B. IPD's Use of Force Policy

We base our review on the IPD's use of force policy that is currently in effect, General Order ("G.O.") 1.1.3, and, where applicable, make reference to the IPD's draft use of force policy, Policy 300.

1. Preamble

In general, a use of force policy should begin with a preamble or general statement setting forth the police department's basic doctrine on use of force. Specifically, with respect to the IPD's G.O. 1.1.3, the preamble appropriately includes a statement that the IPD values the protection and sanctity of human life.³ The preamble also sets forth the

³ The IPD's proposed use of force policy acknowledges that the use of force "is a serious responsibility" but does not include a statement that the IPD values the protection of all human life. Further, section 300.2.2 of the proposed policy

general expectation that prohibits officers from using force unreasonably. However, the policy should include more specific prohibitions, e.g., that force should not be used as a means of punishment or interrogation.

Additionally, the IPD's preamble notes that, "[t]he intent of this order is not to restrict officers from using sufficient force to protect themselves or others from bodily harm."⁴ While this language is important within the broader context of the policy, in practice, the IPD should ensure that its officers do not use this language to minimize or justify uses of force inconsistent with the values set forth in the preamble.

2. Definitions

To ensure consistency in IPD's uses of force, a successful use of force policy should also define critical terms such as lethal force, less lethal force, force, etc. The IPD's policy defines characteristics of and provides examples of "low level," "intermediate level," and "great level" of force. However, some of the force options listed as examples within the different levels are inconsistent with generally accepted police practices. For example, "intermediate force" is defined as having "no reasonable expectation of great bodily injury or death" but includes carotid restraint holds, hobble holds, and the use of canines. Carotid holds, hobble holds, and the use of canines, in certain circumstances, can and should be considered deadly force. These are also all capable of causing serious physical harm. Also, the IPD policy classifies chemical agents (including OC, pepper spray, and tear gas) as "low level force" that "has no reasonable expectation of serious injury." Chemical agents are generally considered an intermediate force option. The IPD should modify its policy to place the force options in the categories consistent with generally accepted police practice.

Additionally, the IPD's use of force policy does not provide enough technical and practical detail to provide officers with

indicates that "officers are expected to make split-second decisions and that the amount of an officer's time available to evaluate and respond to changing circumstances may impact his/her decision." This language appears to serve as peremptory justification for an officer's use of force, rather than language designed to ensure that officers use force appropriately.

⁴ IPD General Order 1.1.3, Intent Section, P. 1.

clear directives. For example, many IPD officers did not seem to understand the difference between excessive and unnecessary force. The IPD does not define many of the legal terms the policy uses to determine under which level a use of force would fall. For example, both the intermediate and great level of force definitions turn on what is a "reasonable expectation of great bodily injury or death" which is not further defined elsewhere in the policy. This language is vague and permits too much discretion. Officers will also find it difficult to apply vague language, i.e. "reasonable officer" and "reasonably necessary" in actual situations. A policy that focuses on the legal standard and uses vague language gives officers too much discretion when deciding which force option to employ. We recommend that the IPD revise its use of force policy to define, with greater detail, the levels of force within which the various force options fall.

3. Permitted Uses of Force

In addition to using consistent use of force definitions throughout the entire use of force policy, we recommend that the policy set forth the IPD's rules on when force may be used and what force is prohibited. The IPD use of force policy states that excessive force occurs when "[t]he force used is clearly out of proportion to the resistance, or non-compliance, of an individual." However, as explained below, the IPD does not employ a use of force policy that describes levels of suspect resistance and proportionate officer force options. Further, in defining "reasonable force," the IPD's use of force policy states only that reasonable force is a "force option selected by an officer [that] is both reasonable and effective in accomplishing those lawful goals." The definition is circular in that the term "reasonable" is used in the definition of "reasonable force." Thus, the policy does not provide clear guidance to officers regarding use of force. In addition, we recommend that the IPD define "lawful goals" as well as delineate when the use of force is not permitted.

Although the IPD's use of force policy states that "[t]he use of reasonable force may be necessary in situations," the policy does not state that force should be used only when it is a necessity. The IPD should revise its policy on the use of force to permit force only when the force used is objectively reasonable because it is necessary to overcome resistance offered in a lawful police action to compel an unwilling subject's compliance with an officer's lawful exercise of police authority. Moreover, this policy should specifically cite the Supreme Court's holding in Graham v. Connor, supra, 490 U.S. at 394, for

the reasonableness requirement. Further, the term "necessary" should be qualified as the least amount of force necessary to overcome resistance presented.

At a minimum, the policy should require that officers use the lowest level of force objectively necessary from the officer's perspective to safely resolve a situation, including verbal commands and other alternative negotiation techniques. We recommend that the use of force policy include alternatives to more significant uses of force, such as the use of "soft hand" techniques (i.e., using hands to escort rather than control subjects) and other de-escalation techniques. IPD's use of force policy should also incorporate the de-escalation techniques appropriate to interactions with individuals with mental illness or who are under the influence of drugs or alcohol, including providing specialized training, e.g., crisis intervention training, or guidance to officers regarding the signs or symptoms for identifying such individuals.

4. Use of Force

A police department's use of force policy is critical to its daily operations. It provides the guidance by which officers are trained and conduct their essential law enforcement duties. Accordingly, it is essential that IPD's use of force policy provide detailed and descriptive guidance to any of its officers faced with any and all situations requiring use of force. Through the use of a diagram, guide, or chart, the use of force policy should include an illustration of a progression of various descriptions of use of force and the corresponding appropriate responses by the officer. Whether a use of force policy includes a matrix, "tool box," continuum, model, or any other term, it is critical to emphasize that a police department's use of force policy and training should incorporate and outline various examples of suspect resistance and appropriate officer use of force responses in order to provide a policy, as well as training curriculum, regarding a progression and de-escalation of uses of force.⁵ To be clear, any such concept, irrespective of terminology, does not require a rigid exhaustion of lower levels of force or initiation of a lower level of force if the circumstances do not justify or necessitate such a lower level of force response.

⁵ For the purposes of this letter and ease of reference, we will use the term matrix.

The IPD's current use of force policy references a use of force continuum. However, neither the IPD's current use of force policy nor its proposed use of force policy incorporate the elements of a matrix that provides varying levels of suspect resistance and the corresponding use of force response options for the officer. Moreover, the policy lacks sufficient guidance or illustration for officers who are confronted with suspects that are mentally ill or under the influence of drugs or alcohol. Thus, IPD's current use of force policy potentially could allow for broad inconsistencies in the use of force by officers in similar circumstances. A clearly articulated use of force policy and matrix would bring clarity and confidence to officers.

IPD should include and incorporate a matrix that augments and enhances a revised use of force policy as a training model to effectively assess and engage situations and to provide officers with uniform guidelines about the appropriate use of force, including an emphasis on de-escalation and escalation techniques. The matrix should be a fluid and flexible policy guide to provide effective and efficient policing. The matrix should be consistent with accepted policing practices and should be used to train officers to consider lower levels of force first, when appropriate, which protects the safety of both the officer and the civilian.

Specifically, we recommend that the IPD develop a use of force policy and matrix that illustrate the various uses of force that may be employed and make them consistent with the terms and definitions outlined in other parts of the policy. The descriptions of force should be detailed and include the level of force officers should initially apply given the threat presented to them, how the various applications of the options affect their placement in the use of force progression, and what level of force is appropriate in response to different levels of resistance by suspects, including de-escalation techniques and interactions with individuals with a mental illness or who are under the influence of drugs or alcohol. The matrix should include all of the actual types of force allowed by IPD, including: firearms, conductive energy devices,⁶ Oleoresin Capsicum ("OC") spray, impact weapons, canines, and any other uses of force.

⁶ Such weapons are sometimes referred to by a brand name, "TASER," or simply called "stun guns." For consistency purposes, we refer in this letter to all such weapons used by the IPD as "conductive energy devices" or "CEDs."

5. Lethal Force

The IPD's GO 1.1.4 accurately defines lethal force, which the IPD refers to as deadly force, and appropriately re-states the consideration of relevant facts and circumstances surrounding a case involving lethal force under the Fourth Amendment. See Tennessee v. Garner, supra, 471 U.S. 1; Scott v. Harris, supra, 550 U.S. at 386. The IPD's use of force policy includes the definition of "immediate threat" to include an intent by either word or deed to inflict "physical or other harm on any person or on property." This definition is inconsistent with the cases analyzing relevant facts and circumstances surrounding the reasonableness of the use of deadly force. Moreover, "physical or other harm" and harm to "property" are vague and inconsistent with the facts and circumstances that should be present with the use of deadly force. Without clarification and consistency with the Supreme Court precedent that have found the existence of substantial and immediate risk of serious physical injury to others important to the Fourth Amendment objective reasonableness analysis, IPD's policy is inconsistent with the constitutional standards and limitations for the use of lethal force, and may also expose IPD to potential liability.

Additionally, the IPD's lethal force policy should include a statement that the use of tools, other than firearms, may constitute use of deadly force depending on the technique used. The policy also lacks specificity or direction on potentially lethal uses of force. For example, a carotid, or choke hold can be a use of deadly force. Thus, we recommend that the IPD review its policy on carotid holds and explicitly explain that officers should use the carotid hold only in circumstances in which deadly force would be authorized. The use of force policy should also prohibit using force on a subject in a manner that is likely to cause positional asphyxia⁷ and describe the methods and procedures to avoid it.

6. Firearms

The IPD's Authorized Weapons and Ammunition policy allows a panoply of authorized weapons and numerous ammunition options. This is unorthodox and problematic. Allowing so many weapon and ammunition options for officers creates potential problems for officer-involved shootings and/or processing crime scenes where

⁷ Positional Asphyxia is a fatal condition arising because of the adoption of particular body positions, which cause interference with breathing.

weapons have been discharged. It also poses problems ensuring that IPD officers receive adequate firearm training. For example, during our site visits to IPD, we learned that many IPD officers had not completed their quarterly firearms qualification because the IPD did not have an adequate supply of ammunition. Allowing a more narrow selection of weapons and ammunition would simplify accountability and training.

Additionally, the policy fails to provide clear guidance on the carrying and use of secondary or "back-up" weapons.⁸ The IPD's policy on firearms does not require that line officers register with their supervisors the secondary weapons that they choose to carry while on duty. We recommend that the IPD prohibit its officers from carrying any secondary firearm without the knowledge and approval of their immediate supervisors. All such approvals should be documented. The documentation should include the type of secondary weapon the officer is approved to carry, the serial number of that weapon, and the officer's qualification records for that weapon.

Also as a means of accountability, the policy does not, but should, limit the number of weapons an officer may carry on duty at any one time. Also, we recommend that the IPD revise its policies to make clear the IPD's right to remove approved weapons from officers' lists and under what circumstances, e.g., sustained violation of policy or unavailability of suitable training and qualification programs.

We further recommend that the IPD should establish a system of accountability for both department-issued and personal ammunition so that the IPD is able to monitor the type and quantity of ammunition used and the circumstances in which it is used. This will facilitate reviews of uses of force, as well as investigations into firearm discharges.

7. Less Lethal Weapons

We recommend that the IPD set forth comprehensive policies that give specific guidance and restrictions on all intermediate force weapons used, including straight and expandable batons, PR-24 side handle batons, Orcutt Nunchakus, chemical weapons, CEDs, impact munitions, and canines.⁹ The use of force policy should

⁸ See IPD General Order 1.2.0.

⁹ The IPD Use of Force policy addresses "low level" and "intermediate level" force generally, but does not provide

include, among other things: where these and other intermediate force weapons fall within the use of force matrix or other model adopted by IPD; the circumstances under which the intermediate weapons should be used and instructions on how to properly use them; prohibitions on the use of the weapons; whether all officers are required to carry them; reporting procedures; and appropriate decontamination and/or medical treatment procedures. Because officers may unnecessarily resort to their firearms if intermediate force options are not available, we recommend that the IPD require all officers to carry a chemical weapon, in addition to an impact weapon. Appropriate training and certification on the use and deployment of all intermediate weapons should be developed and implemented.

8. Impact Weapons

While the IPD certainly has discretion on the impact weapon(s) it chooses to use, we recommend that officers be trained and appropriately re-certified in each tool that officers carry. Having a large number of impact weapon options available, but not specifically mandating any particular tool, may make this logistically more complicated. Accordingly, like with firearms, we recommend that the IPD ensure that it promulgate the list of approved impact weapons and timely distribute the list with the revised policy to mid-level supervisors, thereby allowing supervisors to ensure that unapproved weapons are not carried or used on duty. We also recommend that the IPD require that its officers carry with them their approved impact weapons.

9. Conductive Energy Devices

The IPD's Authorized Less Lethal Weapons and Ammunition policy, G.O. 1.1.6, includes the use of the M-26 Advanced Taser. However, little direction is provided on how and when the Taser should be used. In accordance with best practices, the policy should specify that conductive energy devices ("CED") should not be used against a subject in restraints. We recommend that the IPD prohibit the use of CEDs on restrained subjects. Moreover, when a subject is restrained and engages in active, violent resistance, the CED should be employed in rare circumstances, if at all. Indeed, a use of force policy matrix should adequately provide the officer with options and considerations other than the use of a CED. Moreover, the policy should require a high level of scrutiny in supervisory review whenever a CED is used on a restrained subject.

detailed guidance on specific tools.

To assist the IPD in developing an appropriate policy, we have included a copy of Conducted Energy Devices: Development of Standards for Consistency and Guidance, a policy and training guide developed by the Police Executive Research Forum and published by the Department of Justice's Bureau of Justice Assistance. This publication offers guidance on all aspects of CED use and policies including definitions, how the weapon should be worn and used, and incident investigation. Additionally, use of a CED should be treated as a serious use of force, so that its use can be more readily tracked and problematic trends avoided.

10. Chemical Weapons

The IPD's Authorized Less Lethal Weapons and Ammunition policy, G.O. 1.1.6, requires that officers be trained in the use of OC spray in order to use that chemical weapon. The policy does not provide officers with guidance, however, on how much OC spray to use, duration of use, or appropriate anatomical locations. Although IPD's policy states that "[w]ords or threats made by a person, without the present ability to carry out the threats, are insufficient grounds for its use," we recommend that the IPD make clear in its policy other limitations on use of OC spray. OC spray should only be used for a specific threat, for an appropriate target, for a limited duration, at a limited distance to the subject (to avoid spread of spray to other officers or subjects), at appropriate targets on the subject's body (e.g., not up the nose), and compliant with current training techniques and manufacturer's guidelines.

The IPD's policy appropriately requires officers to decontaminate subjects on whom chemical weapons have been used. We recommend that the IPD implement a uniform practice to permit individuals to decontaminate as soon as it is safe to do so.

Lastly, with respect to OC spray, the IPD does not weigh OC spray canisters or document who is carrying them and when they are carried. To facilitate accountability and, when necessary, investigations into use of OC spray, OC spray should be tracked and inventoried appropriately.

11. Impact Munitions

Because they have the potential to cause serious bodily injury or death, the use of impact munitions (e.g., rubber bullets) needs to be consistent with the use of deadly force. The use of less-lethal impact munitions should be consistent with the IPD's less-lethal force policy, but the IPD's review of the use of all impact munitions should be consistent with the same

level of review as lethal force. The use of an impact munition against an unarmed individual should be appropriately strictly limited.

12. Canines

The IPD has a canine unit that uses Canine Field Teams ("CFT") to assist in law enforcement. The CFTs' policies are outlined in the IPD's Canine Manual. It is not apparent from the document when IPD promulgated the Canine Manual. However, the Canine Manual is clearly outdated, as it does not reflect current generally accepted practices and procedures. The Canine Manual establishes an inadequate selection process for canine handlers and fails to give proper guidance for the use and prohibitions on the use of canines.

We recommend that IPD revise its canine handler selection process to incorporate review of applicants' internal affairs records to ensure an officer's suitability for the position. We also recommend that IPD revise its Canine Manual to give canine handlers adequate guidance and instructions regarding the use of canines. IPD's Canine Manual provides that, among other things, CFTs may be used for "officer safety and protection," "crowd control (under restricted circumstances)," as well as for "any other function in which the police Canine will have a positive effect in the accomplishment of the Department mission." (Emphasis added). Because the use of canines is a serious use of force, the canine deployment policy should be revised to eliminate the use of overly broad, vague language, which affords canine handlers too much discretion regarding deployment decisions.

We recommend that the policy be revised to clarify the circumstances under which the police canine would have "a positive effect in the accomplishment of the Department mission." We further recommend that IPD revise its canine policy to provide further guidance as to what types of circumstances constitute legitimate examples of "officer safety and protection" for the purposes of deploying a canine and cross-reference these situations to the use of force matrix. The canine policy should be revised to eliminate and prohibit the practice of deploying a canine for purposes of crowd control, riots, potential riot conditions, or other large assemblies.

We recommend that IPD revise its canine policy to define canine deployment as any instance when a canine is removed from the patrol vehicle, whether leashed or not, in furtherance of a police activity. Removal of a canine from a vehicle in

furtherance of a police action is equivalent to brandishing of a firearm and should be defined as a use of force accordingly. Moreover, when there is a need for canine deployment, we recommend that the IPD ensures that deployment is subject to appropriate supervisory approval, absent exigent circumstances. According to the current deployment policy, the decision to deploy a canine rests with the canine handler. We recommend that the IPD update this policy to require canine handlers to notify and receive approval from a canine supervisor in advance of deployment, if available and feasible.¹⁰ If no canine supervisor is available, then deployment should require a field supervisor's approval.¹¹

C. Reporting Uses of Force

We recommend that the IPD revise its policy to require all officers involved in a use of force incident, not just the initially involved officer, to prepare individual use of force reports detailing the event. The use of force should be documented in a narrative on a use of force form, and, at a minimum, should include basic information including, name, date, race, gender, and age of the subject of the use of force, as well as, lighting and weather conditions and witnesses. Similarly, each reporting officer should articulate what action by the subject motivated his or her specific use of force. The use of force report should be separate from an incident or arrest report. Further, in order to accurately report (and subsequently review) uses of force, the IPD should also revise its use of force form to require supervisors to collect sufficient information and evidence for later review, oversight, and training. In addition, IPD should ensure that all use of force reports have identification numbers that can be easily cross-referenced and matched to all other relevant documents, such as arrest forms, injury forms, incident reports, and booking information related to the same incident or event.

The IPD's current practice of documenting uses of force within arrest or incident reports and policy have been under-inclusive in what the IPD has considered force, and, in turn, it appears that the reporting of force by officers has been

¹⁰ Other than supervisory approval, the canine supervisor should not be involved in the actual deployment.

¹¹ The IPD should train its field supervisors on general uses of canines and the efficacy and ability of canines to assist in law enforcement, including use of force.

under-inclusive. During our site visits, for example, we were informed that use of force should be reported when it results in an injury. We also learned that take downs in the jail are not reported. Any use of force, whether to gain control or compliance, above "unresisted handcuffing" should be a reportable use of force.¹²

We recommend that the IPD revise its policy to provide detailed guidance and procedures for reporting all uses of physical or instrumental force beyond un-resisted handcuffing on a form dedicated solely to recording use of force information.¹³ As noted above, the policy should be revised to require the arresting officer and all other officers who took part in or witnessed a use of force to prepare a report detailing the event.

We recommend the form be structured so that discrete information about multiple uses of force by multiple officers in a single incident may be recorded. The form should require officers to provide a detailed description of the incident, beginning with the basis for the initial contact, continuing through the specific circumstances and actions that prompted each use of force, resulting injuries, and medical treatment. Although the form may contain check boxes, they should be supported by a narrative, where appropriate. The form should include sections to indicate whether the named witnesses provided statements and for supervisors to evaluate each use of force.

We recommend that the policy specify that all use of force reports and information be appropriately and timely reported and recorded, the responsibility of the first-line supervisor to ensure the use of force is documented, and a procedure for the information to be provided to the chain-of-command. The policy should establish a review mechanism to ensure that officers are complying with the reporting procedures and provide for appropriate sanctions for officers who fail to comply.

¹² The mere fact that a use of force is reportable does not mean it is unreasonable. However, accurate recording and documentation of such information allow for supervisory review and, if necessary, training, corrective action, and/or discipline.

¹³ All uses of force should be recorded on this form, including physical uses of force, shootings, or uses of force involving other weapons such as stun guns, CEDs, or ASP batons.

III. COMPLAINTS OF OFFICER MISCONDUCT

The IPD should implement a formal, structured, and consistent system for receiving and handling complaints of officer misconduct.

A. Complaint Procedure

An open, fair, and impartial process for receiving and investigating citizen complaints serves several important purposes. An appropriate citizen complaint procedure ensures officer accountability and supervision, deters misconduct, and helps maintain good community relations by increasing public confidence in, and respect for, the IPD. Improving the current procedure for handling citizen complaints at the IPD would maximize these goals.

1. Complaint Process Information

An effective complaint process should allow unfettered access for citizens (or others) to make complaints, and should reinforce the public trust in the integrity of the process. We recommend that the IPD better disseminate information to the public about its complaint process, in order to garner more confidence in the process. We recommend that each district police station or sub-station and IPD headquarters have information about the complaint process prominently posted in a visible place in the public reception area. The IPD should also make complaint forms available at the City Hall and other public offices. In addition, officers and supervisors should carry complaint forms in their patrol cars and vehicles. Complaint process information and forms should be posted in multiple languages. The IPD should also consider making its on-line information about the complaint process available in multiple languages. Finally, we recommend that the IPD institute periodic customer satisfaction surveys, and include feedback questions regarding the public's perception of the complaint process, so that IPD has an avenue for addressing any actual or presumed deficiencies.

2. Complaint Intake

An open complaint process contemplates that complaints will not be discouraged. The IPD should change elements of its citizen complaint process that have the potential to discourage the filing of complaints, and to impair effective tracking of complaints.

Under current IPD policy, complaints are received verbally, including telephonically, or in writing. While both sworn and civilian personnel are responsible for receiving written citizen complaints, if a supervisor is unavailable to accept a telephonic complaint, employees are not responsible for, and likely not trained to, document such complaints. Rather, in the absence of a supervisor, the employee is supposed to obtain the complainant's name, address, and phone number, and to convey this information to the supervisor. Further, the IPD does not currently provide a method for citizens to file complaints online. The IPD's current system may deter would-be complainants who are unable to, or otherwise unwilling to, come to a police station to file a complaint, as well as those who would prefer to lodge anonymous complaints.

The IPD should eliminate certain language on its complaint form. As of our visit, the citizen complaint form warns citizens that they could be prosecuted if they file a false complaint. This stern warning can potentially create a chilling effect on those wishing to file a complaint and should be eliminated. The IPD retains the right to pursue prosecution of false complaints, regardless of whether the warning is provided on a complaint form.

The IPD should ensure that its policy and practice on acceptance of complaints requires all police employees to be responsible for receiving and documenting public complaints. Additionally, there is no current policy that requires an employee to contact a supervisor or other IPD member if the employee receives a complaint about him/herself or a fellow officer. We recommend that IPD adopt a policy that requires all personnel, who receive citizen complaints, to immediately contact a supervisor. If a supervisor is unavailable, the policy should then direct personnel to document the complaint, which includes gathering the complainant's name, nature of complaint, date of complaint, name of the officer involved in the incident, and collecting transient evidence. The IPD policy should require that IPD notify the complainant in writing, within a reasonable period of time, that his/her complaint was received, including a tracking or case number for future reference or inquiry.

The IPD should train all its personnel, particularly communications staff members, on their responsibility to accept complaints and reporting pertinent complaint information to supervisors. Further, we recommend that the IPD consider placing drop boxes in police stations or City Hall so that complainants can easily submit their complaints. The IPD would then contact the attributable authors of deposited complaints to initiate the

investigation of those complaints. By instituting this new policy, the IPD should ensure that all complaints are referred to a supervisor and all complaints are documented.

3. Complaint Classification and Investigation

The IPD's current Internal Affairs policy explains that "[a]ll complaints lodged against the Department or any employee shall be sent directly to the Chief of Police." General Order 25.0.0. The Chief of Police determines whether a written complaint will be investigated by the IAD or routed to the division level to be investigated.¹⁴ However, there is no clear policy as to the categories of misconduct allegations that will be investigated by IAD or division level supervisors. IPD should, at a minimum, revise its policies to categorize and classify the various misconduct allegations and designate the appropriate investigating entity.

In addition, based on our site visits and document review thus far, we learned that complaints concerning certain types of excessive uses of force are routed to the division level, where investigations are performed by the same supervisor who had previously written/signed, and thereby tacitly approved, the use of force report. Moreover, there seems to be a practice of intentionally routing these types of investigations to the supervisors who were on the scene and completed the original use of force report. This practice presents an apparent conflict of interest and should be revised. We recommend that, if the Chief of Police refers a complaint to the division level, supervisors involved with writing or signing off on a related use of force report be precluded from conducting the investigation.

We learned that there is an informal resolution process for some complaints. We recommend that IPD's citizen complaint policy be revised to require a formal investigation of every complaint, regardless of whether the complaint is assigned to IA or the division level for investigation. The level of investigation necessary will vary depending upon the seriousness of the complaint, and should be outlined by the policy. As soon as the IPD receives a complaint, the complaint information should be recorded in the IAD's centralized database of all complaints. Even complaints for which complainants refused to submit written forms or which are submitted anonymously should be documented and

¹⁴ And, as discussed in further detail below, verbal complaints may be handled informally pursuant to supervisory discretion.

listed in this database. The date on which a complaint is initiated should be recorded, and processed for complete investigation.

The IPD's citizen complaint process can take up to eighteen months to reach disposition. Notwithstanding such lengthy investigations, the IPD does not require its investigators to update complainants concerning the status of their complaints. This could cause citizens to think that the IPD does not thoroughly investigate citizen complaints. We recommend that the IPD develop a policy requiring investigators to routinely and periodically update complainants about the status of their complaints and document such correspondence accordingly.

IV. INTERNAL AFFAIRS

The internal affairs component of a law enforcement agency should seek to ensure that the integrity of the department is maintained through a system of internal discipline (or corrective action) where fairness and justice are attained by objective and impartial investigations. The IPD should acknowledge and support the core mission of Internal Affairs ("IA"), which is to monitor the behavior of police officers for misconduct, while maintaining its objectivity and autonomy, and ensure that it is comprised of well-trained personnel who are staffed at adequate levels throughout the department.

A. Staffing and Training

Training and staffing are critical to the success of IA and the IPD; and, yet, the IPD has no policy defining criteria for its selection of IA officers. We recommend that the IPD develop articulable selection criteria for all IA positions. Such criteria should include an evaluation of the applicant's performance, including complaint, uses of force, and disciplinary histories to ensure that only officers with unquestioned integrity and ethics are selected to serve as IA investigators and supervisors. The IPD should also take measures to assign officers with extensive investigative skills to IA. IPD should require all IA investigators to complete substantive IA-specific training. We also recommend that IPD review all IA investigators' personnel records, including complaints. Any IA investigators who are themselves the subject of or have been disciplined for matters that would have disqualified them from initial selection should be reviewed and determined whether they should continue serving as IA officers.

IPD supervisors responsible for handling IA investigations should receive specialized IA-related training prior to assuming supervisory responsibilities. We were informed that officers promoted to the rank of sergeant attend IA school for a period of three days; however, new IA investigators attend a week-long IA training. To ensure consistency and investigative integrity, we recommend that all IPD officers responsible for investigating IA complaints -- division-level personnel as well as IA personnel -- receive specialized training in IA investigations, interviewing and interrogation skills, ethics, and IPD administrative and disciplinary procedure. We also recommend that IPD provide its IA supervisors with training in IA management from a certified police IA training program. Similarly, we suggest that the IPD provide continuing law enforcement training to both IA investigators and supervisors, concentrating on IA-specific topics. Additionally, IA should provide in-service training to first-line supervisors regarding their roles in the complaint process and IA investigations.

B. Investigative Process

Thus far in our investigation, we have discovered that the current complaint procedure can be inconsistent and irregular. Under IPD's GO 25.0.0, supervisors, command officers, or the Chief of Police may decide whether to handle a verbal complaint informally. ~~Permitting all supervisors authority to decide whether to handle a verbal complaint informally impairs the IPD's~~ ability to accurately document and track complaints, thus undermining the department's ability to properly evaluate the adequacy of its complaint system.

The lack of a formal, structured, and consistent investigative process poses difficulties to the complainants as well as the involved officers. Some citizens informed us that IPD did not investigate their complaints, or that some complainants were not informed of the outcomes of their complaints. IPD's GO 25.0.0 provides that supervisors must not handle informally complaints of a serious nature. However, the policy does not define, nor does it identify by category, the types of complaints that the department considers serious. The IPD should revise its policy to require that all complaints -- both verbal and written -- be documented.¹⁵

¹⁵ Reportedly, IPD personnel are supposed to document all informal complaints. However, this assertion runs counter to the clear language of GO 25.0.0, which states that the "supervisor receiving a verbal complaint must decide whether to handle it

As previously mentioned, we recommend that IPD revise its policy to require investigators to advise complainants of the status of the investigation periodically throughout the course of the investigation, rather than simply notifying the complainant upon completion of the investigation. As discussed earlier, within a reasonable period of time, if not contemporaneous to filing a complaint, complainants should be given the unique identification number that each complaint should be assigned upon its receipt. This will allow complainants and IPD to quickly and easily identify the status of an investigation and related documents accordingly.

We also recommend that the investigation of complaints be governed by defined time lines set forth in a policy. Indeed, each step of the investigation should have a policy-specific deadline. The IPD's current policy states that IA investigations will be completed within six months from the date the case is assigned for investigation. The six-months timeframe is too long for a department the size of IPD. We recommend that the IPD revise its policy so that, absent exigent circumstances, IA investigations be completed within 90 days, with the possibility of extending the investigation an additional 30 days with specific written approval by the Chief of Police or her designee.

In defining the scope and nature of IA investigations, the IPD policy should provide that any investigation include an interview with the complainant and all relevant witnesses, including both citizens and/or police. The policy should require that the IPD obtain and analyze all available forensic (such as bullets) evidence. The policy should require that supervisors or IA personnel on the scene of an incident take pictures, collect evidence, and conduct interviews. The policy should require all subject and witness officers to produce all statements, reports, and notes completed in the course of duty that are related to the investigation. IA investigators should keep all of these items in the investigative file, along with the IA investigator's notes. Each investigative file should have a chronology log attached to it on which to list daily investigative activity or notes associated with the investigation. The log should also list the location of documents and evidence associated with the investigation. We recommend that the policy require audio or video recording of all interviews for IA investigations.

informally, (i.e., verbally) or formalize it in writing."

If a complainant requests to withdraw his or her complaint, we recommend that IA continue its investigation to determine whether or not a violation of policy occurred. It is inappropriate for IA to terminate a complaint unilaterally without a complete investigation. We recommend that, at the conclusion of every investigation, IA notify all relevant parties, including the complainant, of the final disposition of the complaint. If the complainant's allegation is sustained, the letter should also indicate whether the IPD will take appropriate action.

If, during the course of an IA investigation, collateral misconduct is discovered, IA should institute an independent investigation of such misconduct. The IA policy should be clear that if a policy violation is uncovered, IA will identify that violation and investigate or refer it as appropriate. Likewise, the policy should state that any criminal conduct uncovered will also lead to a referral for criminal investigation.

If a complaint is ultimately sustained, the IPD should return to the documentation regarding the incident from which the complaint was generated to assess supervisory and management accountability. Specifically, the IPD should review these documents to ensure proper supervisory review of the incident and reporting of any identifiable policy violations for IA investigation. If the subject officer's supervisor failed to report a known policy violation, for example, he or she should then be held responsible for the failure to report.

We recommend that IPD review its policy and practice regarding IA's role regarding final adjudication of complaint investigations. It is our understanding that IA investigators do not make a final adjudication nor a recommendation for final adjudication regarding its investigations. IA's function as an independent and objective investigating body is diminished if adjudications and determinations are made by a non-investigating individual in the chain-of-command. Although each level of the chain-of-command should provide his or her agreement or disagreement with the adjudication so that the Chief of Police, the ultimate decision-maker, is able to make an informed final decision, such adjudication should begin with IA.

C. Proactive Investigations

The IPD has no system or procedure for proactive investigations. Solely reactive IA investigations do not comport with best police practices. Proactive IA investigations should include both integrity tests and record reviews to identify potential IA issues.

IA does not randomly review use of force reports to ensure that supervisors are making a qualitative review of their subordinates use of force reports. A fundamental component of any IA is to have a case management system, whereby IA supervisors regularly and routinely review the work of their subordinate investigators. Such a case management system may include re-interviewing and/or re-canvassing for witnesses to incorporate a quality control mechanism in the IA system. Such IA supervisors should also be held accountable for the timelines and quality of investigations by IA investigators. In addition, we recommend that the IPD's IA act proactively in reviewing records to identify potential misconduct issues. We also recommend that the IA review use of force reports on a quarterly basis to identify whether a basis exists to investigate any reported uses of force for potential violations of policy or for referral, if necessary, for criminal investigation.

The IPD also should consider having a formalized process to solicit from the DA and City Attorney's office information on IPD officers' performance in judicial proceedings, e.g., showing up for court, successful motions to suppress based on officers' conduct, or perceived truthfulness of officers' court or deposition testimony. At a minimum, IA should perform annual checks of local court dockets for civil suits that may have bearing on officers' behavior on duty. Many other similarly sized police departments routinely have their IA unit perform an annual check of state driving records for violations or suspended licenses.

The IPD should consider developing a system to monitor, evaluate, and conduct affirmative investigations using targeted integrity tests. The integrity tests should be targeted to determine whether or not evidence of criminal misconduct that violate policy exists when there is an accusation or reason to believe that the subject officer may violate IPD law and policy. Any such system should be memorialized in a policy to provide clear guidance regarding the proper and appropriate use of integrity tests.

V. DISCIPLINE

So that officers have clear guidance regarding what behavior results in what outcome, we recommend that the IPD implement a discipline matrix.¹⁶ Such a matrix should detail the levels of discipline or corrective action available - e.g., retraining, verbal counseling, letters of counseling, forfeiture of leave time, suspension, demotion, and termination - to address violations of policy. The matrix should specify for each type of policy violation what level of discipline shall be imposed for sustained violations of policy in the first instance, second instance, etc., and what factors may mitigate or aggravate levels of discipline to be imposed. It is critical that the IPD have a transparent and fair disciplinary system and that officers are clearly informed of potential consequences of various actions while being treated consistently.

In addition, we recommend that IPD review its policy regarding disciplinary decisions. Specifically, IPD should consider engaging an officer's entire chain-of-command in determining appropriate disciplinary action. As recommended with adjudication of complaints above, all levels of IPD's chain-of-command should provide the Chief of Police a complete recommendation so that she can make an informed decision. Supervisors should be held accountable for such responsibilities. To ensure the IPD maintains an ongoing review of the disciplinary record of its officers and their supervisors, we recommend that IA prepare an annual or semi-annual report enumerating all dispositions and disciplinary action by both IA and chain-of-command for the Chief of Police.

¹⁶ A discipline matrix is a formal schedule for disciplinary actions, specifying both the presumptive action to be taken for each type of misconduct and any adjustment to be made based on an officer's previous disciplinary record.

VI. SUPERVISORY OVERSIGHT

The IPD should ensure that clear chain of command supervision and direction is provided to IPD personnel.

A. Direct Supervision of Line Officers

Thus far, we have noted a significant number of examples where IPD supervisors and command staff are not responsible for making decisions routinely made by their counterparts in other law enforcement agencies. Rather, IPD policies require supervisors and command staff to defer to the authority of the Chief of Police. For example, the Chief is responsible for solicitation and selection of lateral hires, complaint classification, and performing first-level review of the IA records of FTO candidates. Under the current management system, many of the line supervisors abdicate to the Chief their responsibility to supervise officers. This arrangement obscures the roles generally associated with law enforcement chain of command. Integrity and cohesiveness of chain of command is best supported when the supervisory and command staff have clearly delineated roles and a corresponding proportion of accountability. IPD supervisors must take ownership of their supervisory role and accountability for supervision up the chain of command.

We recommend that IPD implement a performance appraisal system that is uniquely crafted for each rank and specialized assignment. Each performance appraisal for supervisors should include the qualities of leadership essential to the role of a supervisor and command officers, including a record demonstrating the ability to take appropriate and timely corrective action regarding subordinate officers.

B. Preparation for Supervisory Roles

Supervisory and command roles are critical to effective law enforcement. The IPD's current sergeant and lieutenant training regimens are minimally adequate, in that the trainings appear in line with the POST mandated requirements. However, the IPD does little to identify the training needs of its supervisors, nor does it do much to enhance its supervisors' management and communication skills beyond the POST mandates. Further, within the IPD, there do not appear to be any established expectations for supervisors to actually implement what they learn in training. We recommend that the IPD develop and implement a

training needs analysis to identify the requisite skills that its supervisors possess as well as skills that its supervisors need to develop.

VII. EARLY WARNING SYSTEM¹⁷

IPD command staff should examine and review officer conduct on a regular basis as a proactive measure to minimize and detect misconduct, and to identify training and policy issues.

The IPD does not have, but should adopt, a risk assessment system or an Early Warning System ("EWS") as an integral part of its risk management program. The IPD should develop or acquire an EWS that is appropriate and applicable to its needs and size. Whether paper-based or computer-based, even a simple EWS would provide a useful assessment of each officer's conduct as well as the department as a law enforcement agency. We recommend that the IPD implement policies and procedures to collect data on individual officers for the purpose of maintaining, integrating, and retrieving information necessary for effective supervision and management of IPD personnel. The EWS should contain information on all investigations and complaints, including non-sustained complaints and complaints prior to final disposition, discipline and other corrective actions, uses of force, arrests and charges, searches and seizures, service calls, training, awards and commendations, sick leave, civil lawsuits, and other items relevant to an officer's conduct. The IPD can then use this data regularly and proactively to promote best professional police practices; improve accountability and management; manage the risk of police misconduct and potential liability; and evaluate and audit the performance of officers and units on a regular basis. We recommend that the IPD require supervisors, including command staff, to review this data for every officer they supervise on a regular, predetermined basis, such as every quarter.

¹⁷ An EWS is a data-based police management tool designed to identify potentially problematic behavior and allow early intervention to correct misconduct and assist in identifying deficiencies in supervision, management, and policies. Police departments typically use EWS data regularly and affirmatively to promote best professional police practices, accountability and proactive management; to manage the risk of police misconduct and potential liability; to evaluate and audit the performance of officers and units; and to identify, manage, and control at-risk officers, conduct, and situations.

The policy implementing these recommendations should also establish guidelines regarding specific events that will trigger an additional supervisory review, such as a specific number of uses of force or citizen complaints within a discrete period. Once an officer has been selected for this additional review, a report should be prepared that details all use of force reports, formal and informal complaints, calls for service, sick leave, counseling reports, civil lawsuits, and commendations pertaining to the officer within the past ten years. The officer's immediate supervisor and command staff should then meet to discuss the report and determine if any corrective action is warranted. The supervisor's and command staff's recommendations should then be forwarded to the Chief of Police for her review and implementation. The effectiveness of the implemented recommendations should be determined by monitoring the officer and drafting written reports on the officer's conduct on a monthly basis. Both the supervisory recommendations and the written monthly report should be included in the officer's file.

We recommend that the IPD implement a system where IPD supervisors perform quarterly reviews of IPD officer conduct. The supervisor who performs the review should be someone other than the officer's direct supervisor. We further recommend that senior supervisors meet annually with every IPD officer to discuss positive aspects of his or her police work, his or her complaint history, if any, and to discuss any problems or concerns officers may have concerning the department.

We recommend that IPD supervisors consider conducting peer-based reviews of the information contained in the reports by comparing complaints, use of force reports, and other pertinent information about a particular officer with similar information from other officers on the same patrol team or shift. In addition, the policy should provide explicit guidance to supervisory officers reviewing reports to ensure that patterns of possible misconduct are identified, analyzed, and addressed properly by command staff. We also recommend that IPD policy mandate that supervisors of specialized units consider and are aware of an officer's IA history. In addition, there should be a formalized periodic review of IA reports for officers in specialized units. The aim of this process is to give supervisors valuable information that, if received early, could identify potential problem officers before misconduct actually develops.

VIII. OFFICER TRAINING

The IPD should develop comprehensive training programs for new and experienced IPD officers.

A. Field Training

A structured field training program is essential for training new recruits. Field training for new officers is an integral component of any comprehensive officer training program, and minimizes the risk of officers engaging in problematic behaviors, including the use of excessive force.

Although the IPD has a number of officers that are designated as Field Training Officers ("FTOs"), there is no policy, standard or procedure for selecting, training, or evaluating an FTO. FTOs are selected by the Chief of Police. There are no written standards for an officer to qualify or to be selected as an FTO. We recommend that clearly defined criteria be established for the selection, training, and evaluation of FTOs.

We recommend that the IPD review and revise its process regarding the selection, training, and evaluation of FTOs. The field training program should use qualified FTOs to supervise and train new IPD officers. FTOs should have at least three years experience on the IPD. Additionally, FTO instructors should have completed a course on how to serve in that capacity. An FTO candidate's experience, complaint history, and interpersonal skills should be considered as selection criteria. We recommend that the supervisors of FTO candidates be permitted to provide meaningful input on the FTO candidates and that this input will be considered in the selection of officers to serve as FTOs. We recommend that FTOs have term limits and a requirement for FTOs to renew their applications to be FTOs at the end of each term. We also recommend that the IPD take measures to recruit and train qualified FTOs, including providing incentives to current officers to encourage them to apply to become FTOs. The IPD should develop and implement a mechanism for regular and periodic evaluation of FTOs and for removing FTOs who fail to perform adequately, and whose actions while serving as FTOs would have disqualified them from selection.

B. In-Service Training

IPD should undertake the development of a formal training needs analysis to assess training deficiencies. Although there is some in-service training provided to officers, there appears to be a lack of training on issues relating to the persons with mental illness, and homeless persons. We recommend that the IPD develop and implement an in-service training program for all officers consistent with most police departments throughout the country. IPD should provide in-service training that includes a minimum of 40 hours per year of training (excluding firearms re-qualification) on police topics, such as: use of force, firearms, defensive tactics, policies and procedures, current legal issues or other issues that are essential to police work, searches and seizures, legal developments and police integrity. The IPD in-service training should include de-escalation techniques for interactions with persons with mental illness and those who may be under the influence of drugs or alcohol. We recommend that officers receive training twice a year on their primary duty weapon as well as twice a year on any other service weapons that they use. All IPD personnel should receive training on the new complaint policy and procedures. We recommend that training be conducted by instructors who have been trained and certified to be instructors, and who are competent in the subject matter.

We note that one potential resource for the IPD in establishing and improving in-service and field training officer programs may be the longstanding training and grant programs administered by other components of the Department of Justice, such as the Office of Justice Programs. While these programs are completely separate and independent of the Civil Rights Division's investigations, we would be pleased to provide you with contact information for exploring the possibility of such assistance.

IX. COMMUNITY OUTREACH

The IPD should work to improve its relationship with the Inglewood community. Citizen interviews and news reports revealed allegations of distrust and fear of the IPD. A negative perception of the IPD exists in the community, which, alone, is reason enough for the IPD to address these concerns.

Therefore, we recommend that the IPD emphasize community partnership as one of its core values and expand its community outreach beyond the Community Affairs Division by making it an integral part of the organization's values. To improve community

outreach, we recommend that the IPD: (1) increase its communication with and make itself more accessible to the Citizen Police Oversight Commission ("CPOC");¹⁸ (2) actively solicit citizen participation and input in the review of its policies and procedures; (3) formulate, disseminate, and consider the results of citizen surveys; (4) increase professionalism, including the courteous interaction with members of the community and wearing of name plates that indicate an officer's rank and surname on their uniform; (5) educate citizens about how to access and use the complaint process; and (6) create policies and procedures for ensuring that, where appropriate, communication with the community include a Spanish component.

In addition, we understand that the City of Inglewood is revisiting the role and authority of the CPOC. This is a positive step by IPD and the City of Inglewood towards enhancing and responding to community concerns and perceptions. Although we do not necessarily endorse a particular method of accountability or the use of a citizen's oversight body, if constituted appropriately with requisite authority, review powers, and access rights, such commissions have added value to a police department's mission and credibility with the community it serves.

We also recommend that the IPD clearly and prominently post its mission statement and statement of citizen rights in multiple languages in the public spaces in IPD buildings. Finally, we recommend that the IPD's planning efforts include identification of, and plans for, tracking quantifiable performance measures. The IPD should report on these measures to the community annually. The IPD should use such measures to target services in need of improvement.

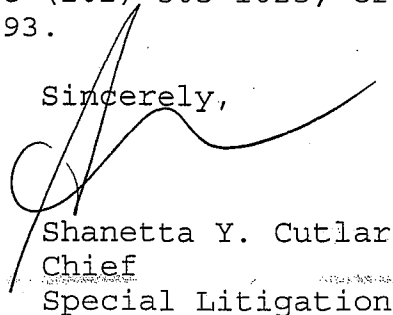
¹⁸ Based on our conversations with IPD personnel, community members, and members of the CPOC, the CPOC has little if any substantive or meaningful role in the operations of IPD. This is contrary to our experience with other police departments with citizen oversight police commissions, where the relationship is fostered and mutually advantageous to the department and the citizens it serves.

X. CONCLUSION

The IPD has made a number of advances during the past eighteen months, particularly under the leadership of Chief Seabrooks. We strongly urge the IPD to consider and adopt these technical assistance recommendations as it revises its policies and procedures. We would greatly appreciate a written response from IPD regarding its response to and implementation of our recommendations within the next thirty (30) days. As we discussed during our last exit conference with Chief Seabrooks in September 2009, we are continuing our investigation of IPD through a review of specific incidents and uses of force by IPD officers.

We look forward to working with you and the department as our investigation proceeds. If you have any questions, please do not hesitate to contact me at (202) 514-0195, Deputy Chief Tammie Gregg at (202) 616-2009, or attorneys Je Yon Jung at (202) 305-1457, Kenyan McDuffie at (202) 305-1025, or Charlene McMillan at (202) 305-1993.

Sincerely,



Shanetta Y. Cutlar
Chief
Special Litigation Section

cc:

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