

## **LAW ENFORCEMENT ACCOUNTABILITY DIRECTIVE**

1215 "K" Street, Suite 1700

Sacramento, CA 95814

(866) 600-3742

January 13, 2017

City of Sacramento  
915 I Street, Fifth Floor  
Sacramento, CA 95814

Re: Response to the City's October 10, 2016 Correspondence re LEAD's 12-Point Call to Action

To Mayor Steinberg, City Council, and City Manager:

Thank you for providing the City's initial response on October 10, 2016 to Law Enforcement Accountability Directive's ("LEAD") 12-Point Call to Action. We appreciate the opportunity to maintain an open dialogue on the important issues of making Sacramento a safer community for all of its citizens. We have reviewed the letter and have conducted additional research into the City's current policies and recent efforts in this space (collectively, "City's Response"). What follows are LEAD's questions and concerns regarding the City's Response and some additional suggestions in our ongoing effort to reach consensus on appropriate substantive reforms relating to uses of force by the Sacramento Police Department ("SPD").

Among these suggestions are a number of uncontroversial proposals for the City to disclose information to the public. Towards our mutual goal of building public trust through transparency and accountability, we believe these disclosures are an excellent starting point to ensure that the public has the information it needs to stay informed. These disclosures, as discussed further in LEAD's responses below, include the following:

- Public disclosure of past and current budgets for body-worn cameras that run from SPD's initial budget for body-worn cameras to the present.
- Public disclosure of the City's Retention Schedule for footage recorded by body-worn cameras. This retention schedule was mentioned in the City's response to LEAD's first call to action regarding body-worn cameras, but has not been made publicly available.
- Public disclosure of SPD's Internal Investigation Manual. This manual is referenced in several of SPD's general orders. However, these general orders are difficult to fully understand without the public disclosure of all of the resources that are cited within.

- Public disclosure of the written materials used for Chief Somers's September 6, 2016 oral report, entitled "Update on Police Department Gender and Ethnic Diversity Efforts." While the oral report is available to be viewed online, the slide presentation itself that contains information on the public accounting of SPD diversity and hiring efforts should be made available through more accessible means. All written materials that accompany oral reports to the City Council or other offices of the City should be publicly disclosed.
- Public disclosure of Lamberth Consulting's full 2008 report on racial profiling in police vehicular stops. While the City indicated that this study was conducted, and mentions this study in archived City Council minutes, the full study should be made publicly available.
- Public disclosure of the City's estimated timetable to commission, review, and release a new study on racial profiling in police vehicular stops. In response to LEAD's fifth call to action, the City expressed its future plans to commission a new study on this subject, and the time table for this study should be made publicly available.
- A public accounting of the Office for Public Safety Accountability's budget and how monies, including the City's Council's recent investment of an additional \$375,000, will be used to promote accountability and transparency.
- A public accounting of the Sacramento Community Police Review Commission's budget and how monies will be invested to promote accountability and transparency.

Such disclosures should also be made as accessible as possible by posting them on either the City's or SPD's website in viewable formats.

While this letter contains many other valuable research points and suggestions for the City's long-term consideration, we believe the City can implement these uncontroversial public disclosures in the short-term and without expending large amounts of resources.

**1. A public accounting of the status of body cameras and dashboard cameras, including the budget for such devices.**

**A. Body Cameras**

As an introductory thought, we are all in agreement that providing body-worn cameras to our police force is an absolute priority. In a highly recognized and groundbreaking study, the City of Rialto's police force found that the use of body cameras reduced use-of-force incidents by 59%, and reduced citizen complaints by 87.5%.<sup>1</sup> This widely discussed study shows the need for body cameras in our community as soon as possible to increase transparency and improve community relations. The study also concluded that the dramatic decrease in complaints saved the city tremendous amounts of money because of the reduced litigation and investigation costs. Therefore, we present our thoughts below, which we hope will help in the development and implementation of the best policies for the most effective body-worn camera program.

First, the City's Response stated that the SPD was awarded \$599,756 by the Department of Justice's Body-Worn Camera Pilot Implementation Program (BWCPIP).<sup>2</sup> In addition, the City Council approved \$535,104 of Measure U funds to fulfill the required grant match in the FY 2016/17 Budget (with \$324,896 of Measure U funds expected to be approved in the FY 2017/18 Budget).<sup>3</sup> However, it is unclear whether the BWCPIP is the only source of funds for body-worn cameras or if there are additional sources. It is also unclear whether there were any SPD body-worn cameras prior to the BWCPIP. Records—showing all of the funds for body-worn cameras and how they are being used—should be made publicly available.<sup>4</sup>

---

<sup>1</sup> Eugene P. Ramirez, Manning & Kass, Ellrod, Ramirez, Trester LLP, *A Report on Body Worn Cameras*, 7, [https://www.bja.gov/bwc/pdfs/14-005\\_Report\\_BODY\\_WORN\\_CAMERAS.pdf](https://www.bja.gov/bwc/pdfs/14-005_Report_BODY_WORN_CAMERAS.pdf).

<sup>2</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento's Response to LEAD's 12-Point Call to Action, 1 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.

<sup>3</sup> City of Sacramento Fiscal Year 2016/17 Budget, 214 (July 1, 2016), [http://www.cityofsacramento.org/-/media/Corporate/Files/Finance/Budget/2016-17Budget/20\\_Police.pdf?la=en](http://www.cityofsacramento.org/-/media/Corporate/Files/Finance/Budget/2016-17Budget/20_Police.pdf?la=en).

<sup>4</sup> The City Council approved a preliminary allocation of BWCPIP funds, but a finalized allocation cannot be found. *Compare* City of Sacramento, City Council Report, 4 (Oct. 27, 2015), [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=3698&meta\\_id=450150](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=3698&meta_id=450150), with City of Sacramento Fiscal Year 2016/17 Budget, 209–18 (July 1, 2016),

**Second**, the City's Response stated that, as of October 2016, the SPD has concluded its testing and moved to the procurement phase of BWCPIP.<sup>5</sup> It remains unclear when this procurement phase will end and when body-worn cameras will be fully implemented. In addition, the SPD policy does not clearly articulate which employees will be issued body-worn cameras, and at what level that decision is made.<sup>6</sup> Our research into the best practices of other jurisdictions, such as policies from Newark and Baltimore, show clearly delineated rules that require all patrol officers, patrol supervisors, jail personnel, and other employees reasonably expected to regularly interact with the public to be equipped with, and required to wear while on duty, fully functioning body-worn cameras and microphones.<sup>7</sup>

In addition, in the course of our research into the SPD's current policies on body-worn cameras, several issues arose which we believe should be addressed or clarified as part of the SPD's policy. **First**, the City's current body-worn camera policy requires employees to be responsible for the care and maintenance of the equipment<sup>8</sup> and for supervisors to conduct periodic inspections.<sup>9</sup> This policy, however, is vague as to the means of maintenance and timing of inspections. Other jurisdictions, for example, provide additional clarity by requiring supervisors to inspect body-worn cameras on at least a quarterly basis and immediately report any equipment problem to a designated official.<sup>10</sup>

**Second**, the policy requires officers to be trained on the proper use of the equipment<sup>11</sup> and for supervisors to ensure that all officers have been trained.<sup>12</sup> The scope of this training is

---

<sup>5</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento's Response to LEAD's 12-Point Call to Action, 2 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.

<sup>6</sup> SPD G.O. 525.07 § B(1).

<sup>7</sup> Consent Decree, *United States v. Ferguson* ¶ 229; Consent Decree, *United States v. Newark* ¶ 103; Agreement in Principle between the US and the City of Baltimore Regarding the Baltimore Police Department, 2 (Aug 9, 2016), <https://www.justice.gov/opa/file/883376/download>; *but cf.* Consent Decree, *United States v. Cleveland* ¶ 337 (the terms of which explicitly do not require the use of body cameras, although they do set out similar standards for training and supervision in the event that cameras are used).

<sup>8</sup> SPD G.O. 525.07 § B(2)(b).

<sup>9</sup> SPD G.O. 525.07 § F(2).

<sup>10</sup> Consent Decree, *United States v. Ferguson* ¶ 241; Consent Decree, *United States v. Newark* ¶ 104.

<sup>11</sup> SPD G.O. 525.07 § B(1).

<sup>12</sup> SPD G.O. 525.07 § F(1).

unclear, but it would be appropriate to ensure that SPD officers wearing cameras receive training on the applicable policies of when to turn on the cameras, and on issues related to their use. For example, the Baltimore Police Department trains its officers on individuals' First Amendment rights, prohibits the retaliation against individuals for exercising these rights, and ensures timely investigation and discipline of officers for violating applicable policies.<sup>13</sup>

**Third**, while the policy describes when employees and supervisors *may* review body-worn camera recordings,<sup>14</sup> it does not specify when such recordings *must* be reviewed. A number of jurisdictions, by comparison, require all body-worn camera footage to be reviewed in the course of conducting misconduct investigations, in any incidents involving injuries to a prisoner, or if an officer uses force or pursues a vehicle.<sup>15</sup>

**Fourth**, the policy makes an exception in which an officer does not have to activate his body-worn camera if it is not feasible due to an immediate risk to the safety of the officer or others.<sup>16</sup> This is a vague legal standard, and LEAD is concerned that such exceptions, while practical to some degree, could be misused to blunt the very purposes of the policy. The policy further states that cameras are to continue recording until the applicable investigative or enforcement activity has resolved<sup>17</sup>; yet, the policy still gives SPD officers the discretion to deactivate the camera at any time if it would interfere with an investigation.<sup>18</sup> More objective standards would help minimize the potential for abuse and inconsistent practices. For example, abuse might be minimized if body-worn cameras, like in-car cameras, recorded 30 seconds before activation and 30 seconds after deactivation as is required in Sacramento's similar policy governing in-car police cameras.<sup>19</sup> Additionally, the police department in Ferguson, Missouri limits the instances in which a police officer is excused from otherwise having to activate his body-worn camera to those that are specifically articulated.<sup>20</sup> Other

---

<sup>13</sup> Agreement in Principle between the US and the City of Baltimore Regarding the Baltimore Police Department, 4 (Aug 9, 2016), <https://www.justice.gov/opa/file/883376/download>.

<sup>14</sup> SPD G.O. 525.07 §§ B(4), F(4)–(5).

<sup>15</sup> Consent Decree, *United States v. Ferguson* ¶ 242(b), (c); Consent Decree, *United States v. Newark* ¶ 104.

<sup>16</sup> SPD G.O. 525.07 § C(2).

<sup>17</sup> SPD G.O. 525.07 § C(5).

<sup>18</sup> SPD G.O. 525.07 § D(1)(e).

<sup>19</sup> SPD G.O. 525.03 § C(4).

<sup>20</sup> Consent Decree, *United States v. Ferguson* ¶ 231(a).

police departments from around the country have followed suit and have defined specific instances when a body-worn camera should be recording, and when an officer *may* exercise their discretion to turn off the camera.<sup>21</sup> Cities like Atlanta, Chicago, and Los Angeles enumerate a non-exhaustive list when a body-worn camera *must* be turned on, including pedestrian stops, foot and vehicle pursuits, calls for service, searches, in-custody transportation of suspects, and many other law enforcement activities; in addition, these jurisdictions also specifically list instances when body-worn cameras must or can be turned off, such as when entering dressing rooms and bathrooms, when witnesses specifically ask to make statements off camera, or when interacting with a confidential informant or undercover officer.<sup>22</sup> Chicago goes even further by requiring officers to verbally state, during the recording, when and why they are about to turn off the camera.<sup>23</sup> If the officer cannot do so, or otherwise fails to record an incident in its entirety, the officer must verbally state his or her reasons for failing to record the event on the recording.<sup>24</sup> A recent ACLU whitepaper supports these practices; while it is not practical and may even implicate officer privacy issues to keep the body-worn camera recording for an officer's entire shift, there should be a limited number of situations clearly articulated in the policy when an officer *may* turn his or her body-worn camera off temporarily.<sup>25</sup>

**Fifth**, the policy provides for the storage of recordings for a minimum of 18 months.<sup>26</sup> This policy, however, may be ineffectual to community members who could bring complaints and lawsuits well after 18 months have expired and their evidence destroyed. For example, in

---

<sup>21</sup> *Police Body Worn Cameras: A Policy Scorecard*, The Leadership Conference (August 2016), (maintaining a scorecard and comparative chart of the body-worn camera policies of over 50 police departments in the United States).

<sup>22</sup> See Atlanta Police Department Policy Manual § 4.3.1–6 (January 1, 2016); Special Order S03-14 § V.G.–E., Chicago Police Department (May 10, 2016), ; Los Angeles Police Department Special Order Regarding Body Worn Video Procedures §§ III–VI, Los Angeles Police Department (April 23, 2015), <https://www.bwcscorecard.org/static/policies/2015-04-28%20Los%20Angeles%20-%20BWC%20Policy.pdf>.

<sup>23</sup> Special Order S03-14 § V.G., Chicago Police Department (May 10, 2016), <https://www.bwcscorecard.org/static/policies/2016-05-10%20Chicago%20-%20BWC%20Policy.pdf>

<sup>24</sup> Special Order S03-14 § V.G., Chicago Police Department (May 10, 2016), <https://www.bwcscorecard.org/static/policies/2016-05-10%20Chicago%20-%20BWC%20Policy.pdf>.

<sup>25</sup> Jay Stanley, American Civil Liberties Union, *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All Version 2.0* (March 2015), [https://www.aclu.org/sites/default/files/assets/police\\_body-mounted\\_cameras-v2.pdf](https://www.aclu.org/sites/default/files/assets/police_body-mounted_cameras-v2.pdf).

<sup>26</sup> SPD G.O. 525.07 § H(1).

Ferguson, evidentiary recordings are to be retained for at least two years.<sup>27</sup> The ACLU has also addressed this retention issue by advocating for a tiered flagging system. While most video recordings will be inconsequential and subject to the normal retention period, certain video should be flagged for a longer retention period, such as 3 years. Such a policy would specifically delineate what types of video should be automatically flagged for this longer period, such as video in which any arrests are made, video that captures any incident that corresponds with a formal or informal complaint of officer misconduct, video that captures a police officer discharging his or her firearm, or video that captures an officer using any other police-issued weapon.<sup>28</sup> Such a 2 year/3 year tiered retention policy would balance the public's need for transparency with SPD's concerns regarding costs of retention by ensuring that only the most sensitive and consequential video is retained for additional review and evidentiary purposes.

In addition, the City of Sacramento's Retention Schedule should be made publicly available for purposes of accountability and transparency.

**Sixth**, the policy is vague as to discipline. While the disciplinary policy prohibits SPD employees from violating the federal, state, and local laws, the policy only states that the employee will be subject to disciplinary action "in accordance with the CSBR [Civil Service Board Rules], the General Orders, Internal Investigations Manual (RM 220.01) and/or applicable labor agreements."<sup>29</sup> The CSBR and SPD General Orders are accessible, but LEAD has been unable to find the Internal Investigations Manual. As a result, it is difficult to ascertain the consequences of violating body-worn camera policies. The City should make these documents publicly available (with confidential information redacted) for purposes of accountability and transparency. The discipline process should also be delineated in an easily accessible format for the public.

**Finally**, the City's actions on November 29, 2016, to affirm the Office Next Door Framework ("ONDF") established that the SPD would "[r]elease all video associated with an officer-involved shooting, in custody death, or complaint reported to the Office of Public

---

<sup>27</sup> Consent Decree, *United States v. Ferguson* ¶ 248.

<sup>28</sup> Jay Stanley, American Civil Liberties Union, *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All Version 2.0* (March 2015), [https://www.aclu.org/sites/default/files/assets/police\\_body-mounted\\_cameras-v2.pdf](https://www.aclu.org/sites/default/files/assets/police_body-mounted_cameras-v2.pdf)

<sup>29</sup> G.O. 220.05 § B(4).

Safety Accountability within 30 days,”<sup>30</sup> *unless* the video hampers, impedes, or taints an ongoing investigation.<sup>31</sup> In such case, the Chief of Police would merely have to provide the reasons for withholding the video and obtain a waiver from the City Council.<sup>32</sup> Again, it is important with such an integral program like body-worn cameras to have clearly defined legal standards and transparency about the application of those standards. One advocacy group, Campaign Zero, has called for increased transparency by requiring public entities to secure a court order before denying release of body-worn camera footage, and allows such video to be accessible to citizens who were the subject of the video.<sup>33</sup> At a minimum, we suggest that the reasons for withholding the video in such cases be memorialized, and be released together with the video at the appropriate time, in order to reduce public suspicion about the basis for delaying publication of the video.

## B. In-Car Cameras

In addition to the City’s Response regarding body-worn cameras, the City also gave a short accounting of the status of in-car cameras. The City’s Response stated the current in-car camera system was installed in 2012 with “expanded functionality” and “will need replacement within the next few years.”<sup>34</sup> LEAD would like additional clarity as to what “expanded functionality” this camera system has that the previous system did not. Furthermore, clarity is needed to determine how often in-car cameras are serviced and upgraded, and what the SPD’s budget is for these cameras.

Also, the SPD’s current policies raise many of the same questions posed for body-worn cameras. **First**, the policy requires that all SPD employees utilize the in-car camera (“ICC”) in accordance with the relevant training. The contours of this training are not available, and the City should provide information on practices that exist to confirm that any training that

---

<sup>30</sup> City of Sacramento, City Council Report, 18 (Nov. 29, 2016), [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=3900&meta\\_id=485761](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=3900&meta_id=485761).

<sup>31</sup> City of Sacramento, City Council Report, 18 (Nov. 29, 2016), [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=3900&meta\\_id=485761](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=3900&meta_id=485761).

<sup>32</sup> City of Sacramento, City Council Report, 19 (Nov. 29, 2016), [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=3900&meta\\_id=485761](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=3900&meta_id=485761).

<sup>33</sup> Campaign Zero: Body Cams/Film the Police Policy Solutions, <http://www.joincampaignzero.org/film-the-police>.

<sup>34</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento’s Response to LEAD’s 12-Point Call to Action, 1 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.



SPD officers receive regarding the operation and maintenance of ICCs is effective (i.e., that officers understand and comply with applicable policies and procedures).

**Second**, the policy is also vague as to the standards for activation of the ICC. The current policy requires that the ICC be activated “as soon as practical” upon a potential citizen or investigatory contact, and should be turned off when that incident or contact “has reasonably been concluded.”<sup>35</sup> This raises the question of what exactly “as soon as practical” and “has reasonably concluded” mean. A more objective standard would help minimize potential abuse. For example, in Ferguson, the policy requires that in-car cameras record until the vehicle stop is complete and the stopped vehicle departs.<sup>36</sup>

**Third**, similar to body-worn cameras, the policy details when employees and supervisors *may* review body-worn camera recordings,<sup>37</sup> but it does not specify when such recordings *must* be reviewed. A number of consent decrees, by way of comparison, require that all ICC footage be reviewed in the course of conducting misconduct investigations, in any incidents involving injuries to a prisoner, or if an officer uses force or pursues a vehicle.<sup>38</sup>

**Fourth**, similar to body-worn cameras, the policy provides for the storage of recordings for a minimum of 18 months.<sup>39</sup> This policy, however, may be ineffectual to community members who could bring complaints and lawsuits well after 18 months have expired and their evidence destroyed. It is also unclear why the retention policy for in-car cameras is different than that of body-worn cameras. For example, while body-worn camera recordings must be retained for a *minimum* of 18 months,<sup>40</sup> in-car camera recordings must be retained only for a period of 18 months.<sup>41</sup> Furthermore, while in-car camera recordings that become evidence must be maintained until the matter is resolved, body-worn camera recordings must be kept in accordance with the crime classification listing in the City’s Retention Schedule.

---

<sup>35</sup> SPD G.O. 525.03 § C(5).

<sup>36</sup> Consent Decree, *United States v. Ferguson* ¶ 231(b).

<sup>37</sup> SPD G.O. 525.03 §§ C(11)–(12), (E).

<sup>38</sup> Consent Decree, *United States v. Ferguson* ¶ 242(b), (c); Consent Decree, *United States v. Newark* ¶ 104.

<sup>39</sup> SPD G.O. 525.03 § H(1).

<sup>40</sup> SPD G.O. 525.07 § H(1).

<sup>41</sup> SPD G.O. 525.03 § H(1).

**Fifth**, similar to body-worn cameras, the consequences of violating in-car camera policies should be delineated in an easily accessible format for the public for all the same reasons stated above in the body-worn camera section.

**2. A public accounting of the percentage of police officers that actually reside in Sacramento broken down by zip code.**

Although the City does not currently have a requirement or incentive program for Sacramento police officers to live in the city, the City's Response stated that "91 out of 654 Sacramento police officers currently reside within the city limits," or less than 14% of the force.<sup>42</sup>

As a part of the City's commitment to community policing, which is detailed further below, the City should be committed to having officers live in the communities they police. During his September 6, 2016 oral report entitled "Update on Police Department Gender and Ethnic Diversity Efforts" to the City Council, Chief of Police Sam Somers Jr. even stated that he believed providing an incentive for police officers to live in the City would be a positive development. LEAD continues to ask the City to increase its efforts to recruit from the community and to incentivize officers to move into the communities they police.

**3. A public accounting detailing specific plans to improve officer diversity, recruitment, and promotion in the command structure.**

**A. Diversity**

Both the City and LEAD recognize the importance of having a diverse police force that adequately represents all ethnicities from the community in which it polices. **First**, however, Chief Somers's September 6, 2016 oral report, and other types of similar information, should be made readily accessible to the public. This oral report can only be accessed by searching archived City Council meetings on the City's website. Rather, it should appear on the SPD website, and the slideshow presentation that formed the basis of the report should also be

---

<sup>42</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento's Response to LEAD's 12-Point Call to Action, 2 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.

made easily accessible. This type of transparency is already taking place in other jurisdictions, like Ferguson, where recruitment information is readily accessible on city and police department websites.<sup>43</sup>

**Second**, in the oral report, Chief Somers stated that the SPD seeks to maintain a diverse workforce through targeted recruitment strategies and programs, such as the Pipeline Hiring Program and Links to Law Enforcement. Chief Somers then went on to discuss the results of those efforts, specifically with regard to increasing the SPD's diversity.<sup>44</sup> Unfortunately, even after viewing this oral report, it is unclear how effective the SPD's efforts have been in actually improving diversity. For example, do the SPD's diversity efforts not only attract diverse candidates, but also retain them? And what is the track record for promotions of diverse candidates? Given the wide variety and number of recruitment programs, how successful have specific recruitment programs been in attracting diverse applicants and/or leading to the ultimate hiring of diverse police officers?<sup>45</sup> Although Chief Somers indicated that hiring programs such as the SPD Police Cadet Program have greater diversity in membership than the SPD workforce, there were not enough historical data points to determine general trends.<sup>46</sup> Best practices gleaned from other jurisdictions, such as Cleveland, include requiring police departments to report their recruiting activities and outcomes to the public annually.<sup>47</sup> These reports include the number of applicants, interviewees, and selectees, broken down by gender, race, ethnicity, and national origin. As a result, if the City is unable to measure the effectiveness of the SPD's efforts to improve diversity, then the raw data should at least be made publicly available (with confidential information redacted) so that others may do so.

---

<sup>43</sup> Consent Decree, *United States v. Ferguson* ¶ 283(d).

<sup>44</sup> City of Sacramento, Budget and Audit Committee, *Update on Police Department Gender and Ethnic Diversity Efforts*, [http://sacramento.granicus.com/MediaPlayer.php?view\\_id=38&clip\\_id=3856&meta\\_id=478360SPD](http://sacramento.granicus.com/MediaPlayer.php?view_id=38&clip_id=3856&meta_id=478360SPD).

<sup>45</sup> City of Sacramento, Office of the City Auditor, *Audit of the City's Gender and Ethnic Diversity*, 8, 136 (July 2016), <http://www.cityofsacramento.org/-/media/Corporate/Files/Auditor/Audit-Reports/2-Audit-of-the-Citys-Gender-and-Ethnic-Diversity-NEW.pdf?la=en> (finding that as of July 2016, 70% of SPD employees were white, 29% of color (5% African-American), and 1% not specified, while over 60% of the Sacramento population in 2013 were people of color).

<sup>46</sup> City of Sacramento, Budget and Audit Committee, *Update on Police Department Gender and Ethnic Diversity Efforts*, [http://sacramento.granicus.com/MediaPlayer.php?view\\_id=38&clip\\_id=3856&meta\\_id=478360SPD](http://sacramento.granicus.com/MediaPlayer.php?view_id=38&clip_id=3856&meta_id=478360SPD).

<sup>47</sup> Consent Decree, *United States v. Cleveland* ¶ 307.

**Third**, one of ONDF’s four pillars is “diversity.” Going forward, ONDF seeks to improve diversity through diversity-targeted recruitment strategies, diversity-targeted mentoring and professional development, incentive programs to encourage officers to live in the City, hiring more officers from the City, and potentially developing a public safety charter school.<sup>48</sup> At this stage, however, there have been no specifics for these aforementioned programs. The City must specify specific plans and details to show why these plans will not merely be a continuation of past efforts to improve diversity, but will actually be effective.

### **B. Promotion**

The City’s Response did not comment or otherwise provide any information on current policies and efforts to use promotion opportunities to incentivize positive conduct that minimizes the risk of violent incidents. Best practices in other jurisdictions, though, require that officers who police effectively and ethically be recognized through the performance evaluation process, and that officers who lead effectively and ethically are identified and receive appropriate consideration for promotion.<sup>49</sup> In making these assessments, factors to be considered include: a) effective use of community-policing strategies; b) number of sustained and unsustained complaints; c) number and circumstances of uses of force and related complaints; d) disciplinary history; e) problem-solving skills; f) interpersonal skills; g) education; h) support of departmental integrity measures and demonstrated commitment to bias-free policing; i) quality and accuracy of officer reports, search warrants, and supportive affidavits or declarations; and j) effective use of de-escalation and crisis management techniques.<sup>50</sup>

As a conclusory statement to this topic, accountability must be built into the goal to improve diversity hiring in the SPD. Without proper incentives or consequences, there will be no impetus for change. The City must set achievable benchmarks, and must hold the City Manager and the Chief of Police accountable when such benchmarks are not met.

#### **4. A public accounting on the training and retraining of all police officers regarding the use-of-force, community engagement, and cultural understanding and bias-free policing. We demand a review and revision of police use of force policies.**

---

<sup>48</sup> City of Sacramento, City Council Report, 17–18 (Nov. 29, 2016), [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=3900&meta\\_id=485761](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=3900&meta_id=485761).

<sup>49</sup> Consent Decree, United States v. New Orleans ¶ XIV; Consent Decree, United States v. Ferguson ¶ 299.

<sup>50</sup> Consent Decree, United States v. New Orleans ¶ 303; Consent Decree, United States v. Ferguson ¶ 299; Consent Decree, United States v. Cleveland ¶ 318.

### A. Training Generally

Training and education are the foundation upon which a police officer builds his or her career, and we want to ensure that SPD employees are receiving first-class training and education to be as effective at their jobs as possible. We are impressed by the scope and amount of training that SPD officers receive, but we think more can be done to ensure that this training is having the intended impact. **First**, the City stated that as part of the Sacramento Police Academy (“SPA”), SPD officers undergo many hours of Disputes/De-escalation/Use of Force, Community-Oriented Policing, and Cultural Diversity training.<sup>51</sup> We applaud the SPD’s commitment to such training, but we believe more information should be gathered and made available concerning whether these training courses are effective, whether supervisors receive the same or more training, and what is being done with respect to officers who do not complete the training. If the City cannot accurately determine how effective this training translates into the field, it must take reasonable steps to close that gap.

**Second**, the City stated that the SPD offers a month of post-academy training, where SPD officers undergo scenario-based training, and various perishable skills training to SPD personnel.<sup>52</sup> However, it is unclear what the curriculum, requirements, and budget for the SPD officers’ continuing education entail. A number of jurisdictions, including Seattle for example, have overhauled their training materials to ensure that all officers receive initial and ongoing annual in-service training.<sup>53</sup> Furthermore, the Commission on Peace Officer Standards and Training (“POST”) recommends a variety of continuing professional training topics and perishable skills/communication trainings to be administered to police officers.

---

<sup>51</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento’s Response to LEAD’s 12-Point Call to Action, 2–3 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.

<sup>52</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento’s Response to LEAD’s 12-Point Call to Action, 3–4 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.

<sup>53</sup> Consent Decree, *United States v. Ferguson* ¶ 310; Consent Decree, *United States v. Seattle* ¶ 128–29; see also Samuel Walker, *Police Accountability and the Central Problem in American Criminal Justice*, 6–9, [http://web.law.columbia.edu/sites/default/files/microsites/contract-economic-organization/files/Walker\\_Police%20Accountability.pdf](http://web.law.columbia.edu/sites/default/files/microsites/contract-economic-organization/files/Walker_Police%20Accountability.pdf) (supporting officer training as a means to holding police officers accountable for discretionary uses of force)

It is also unclear how effective these post-academy training courses are in ensuring officers' proper use of force, community-oriented policing, and bias-free policing, in the field. For example, does the City (or anyone else) conduct routine audits to determine whether these officers in the field continue to follow the training they received? It would be important to know how often officers are removed from assignment and placed on a performance improvement plan or are disciplined because they failed to meet standards. For example, does the City create and maintain such records?

The Final Report of the President's Task Force on 21st Century Policing and a number of consent decrees recognize the need to collect and analyze data surrounding officers' use of force, in particular.<sup>54</sup> Many jurisdictions have required that departments develop a revised disciplinary matrix, and work with the police unions to ensure that sustained disciplinary findings stay on records for ten years.<sup>55</sup>

**Third**, one of ONDF's four pillars is "training." ONDF seeks to ensure that SPD officers continue to be trained in "peaceful conflict resolution and de-escalation techniques to include less lethal options."<sup>56</sup> ONDF also stresses cultural sensitivity, the elimination of implicit bias and discrimination recognition.<sup>57</sup> Another ONDF pillar is "engagement." ONDF seeks to increase community engagement through community activities, youth development and crime prevention strategies, restoring police staffing levels to support community policing, and addressing underlying systemic issues such as education and underemployment.<sup>58</sup> However, it is unclear who is responsible for directing and staying accountable for ONDF.

## **B. Use of Force Training**

The City stated that Disputes/De-escalation/Use of Force training teaches recruits how to successfully mediate disputes involving crimes, civil matters, or disturbances in a diverse

---

<sup>54</sup> *Final Report of the President's Task Force on 21st Century Policing*, 2.2.4 Action Item (May 2015), [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

<sup>55</sup> Consent Decree, *United States v. Cleveland* ¶ 249.

<sup>56</sup> City of Sacramento, City Council Report, 17 (Nov. 29, 2016), [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=3900&meta\\_id=485761](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=3900&meta_id=485761).

<sup>57</sup> City of Sacramento, City Council Report, 17 (Nov. 29, 2016), [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=3900&meta\\_id=485761](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=3900&meta_id=485761).

<sup>58</sup> City of Sacramento, City Council Report, 18 (Nov. 29, 2016), [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=3900&meta\\_id=485761](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=3900&meta_id=485761).

community.<sup>59</sup> We appreciate the fact that SPD officers receive this training, but it is unclear what success means or how it is measured. It is also unclear whether this training addresses important issues such as dealing with individuals with mental disabilities, chemical or alcohol dependencies, or juveniles.

### C. Community Engagement Training

The City stated that SPD officers undergo many hours of community engagement training, namely in community-oriented policing. However, as mentioned earlier, it is unclear how effective the SPD's ongoing trainings are in leading to better results in the field. Best practices from other jurisdictions and the President's Task Force on 21st Century Policing suggest the following statistics may assist in assessing an officers' adherence specifically to community-policing principles: evaluation of officers on their efforts to engage members of the community and the partnerships they build as part of the performance evaluation process;<sup>60</sup> data on officers' use of crisis intervention programs to divert individuals to mental health providers in the community, where appropriate;<sup>61</sup> and officer surveys to test whether community policing principles have been institutionalized.<sup>62</sup>

### D. Bias-free Policing Training

On October 5, 2015, Governor Brown signed the Racial and Identity Profiling Act of 2015 (Assembly Bill (AB) 953). Among its many reforms, AB 953 revised the definition of racial profiling to instead refer to "racial or identity profiling" and required the Commission on POST to revise the training guidelines on biased-free policing that it disseminates to all California law enforcement officers. It also requires training on bias-free policing to be in compliance with POST standards, with a refresher course completed, at minimum, every five

---

<sup>59</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento's Response to LEAD's 12-Point Call to Action, 2 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.

<sup>60</sup> *Final Report of the President's Task Force on 21st Century Policing*, 4.2.1 Action Item (May 2015) [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

<sup>61</sup> Consent Decree, *United States v. Cleveland* ¶ 145 *et seq.*

<sup>62</sup> Trend Ikerd and Samuel Walker, U.S. Department of Justice Office of Community Oriented Policing Services, *Making Police Reforms Endure: The Keys for Success*, 13 (April 2010), <https://ric-zai-inc.com/Publications/cops-p176-pub.pdf>.

years.<sup>63</sup> The City should provide information on how these new guidelines are being implemented and who is responsible for doing so.

**5. A public accounting and audit on current data on police traffic stops including a demographic profile of who is being stopped, the reasons, and by zip code. This must include audit and report on citizen complaints against the police department.**

As mentioned above, data collection is becoming increasingly important in the 21st Century of policing in this country. LEAD and others recognize the need to measure data effectively, use the data to recognize trends and make policy adjustments, and also to provide such data to the public. In regard to the data of traffic stops, **first**, the City's Response stated that the SPD is prepared to commission a subsequent study, the funding of which will be considered in next year's budget.<sup>64</sup> We believe a new study is a positive step, but the City's Response does not provide any detail as to a target date when this study will take place and when it will be made available to the public. If the City becomes unable to commission a new study, the raw data should be made publicly available (with confidential information redacted) so that others may do so.

**Second**, the City commissioned a study in 2008 that resulted in six recommendations to the SPD by Lambeth Consulting regarding racial profiling in vehicle stops. This 2008 report is not publicly available, and thus LEAD cannot evaluate whether it truly records the type of data necessary to measure relevant trends. This report should be publicly available. It is also unclear which reforms the City adopted as a result of the study and how effective these reforms have been in the past eight years. The City should make this information publicly available, including the reasons that each given recommendation was or was not adopted.

**Third**, AB 953 requires all state agencies that employ peace officers to annually report to the Attorney General data on all stops (any detention by a peace officer of a person, or any peace officer search of a person) and requires the data to include specific information, including the time, date, and location of the stop, and the reason for the stop.<sup>65</sup> The City should provide a public report detailing the steps it has been taking in order to comply with AB 953's stop data collection and reporting requirements.

---

<sup>63</sup> Cal. Assembly Bill 953, § 4 (2015).

<sup>64</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento's Response to LEAD's 12-Point Call to Action, 5 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.

<sup>65</sup> Cal. Assembly Bill 953, § 1 (2015).



The City should make an investment in software technology that will promote transparency. In the context of traffic stops, software such as CrimeStat and or existing geographical information systems can accurately plot traffic stops on interactive maps online in real time. In addition to using such software to report crimes, the police should utilize such software to keep themselves accountable by recording vehicle stops and other investigatory stops.

In addition, current SPD policy requires SPD officers to use Vehicle Stop Data Forms (“VSDFs”) as a means to collect statistical information on a traffic stop that was initiated by SPD officers. It also requires SPD personnel to know and comply with VSDF instructions. Regrettably, the SPD policy does not provide any information on the type of information that SPD officers are required to collect in the VSDF. It is also unclear what the VSDF instructions entail. It would be helpful to know whether the City has a process by which it reviews and analyzes the data collected from VSDFs internally (aside from the AB 953 collection and reporting requirements), on a periodic basis. Other jurisdictions have developed protocols for comprehensive analysis of the stop-and-search data collected on at least an annual basis.

Best practices from other jurisdictions require a robust collection of data on all investigatory stops and searches. In jurisdictions like New Orleans and Cleveland, officers are required to document the following during traffic stops: officer’s name and badge number; date and time of stop; location of the stop; duration of the stop; subject’s apparent race, ethnicity, gender, and apparent age; if a vehicle stop, the presence and number of any passengers and the apparent race, ethnicity, gender, and age of each passenger; if a non-vehicle stop (*e.g.*, pedestrian or bicycle), the number of individuals stopped and the apparent race, ethnicity, gender, and age of each person; reason for the stop; whether the driver or any passenger was required to exit the vehicle and reason; whether any individual was asked to consent to a search and whether such consent was given; whether a probable cause search was performed, including a brief description of the facts creating probable cause; whether a pat-and-frisk or other search was performed on any individual, including a description of the facts justifying the pat-and-frisk or other search; whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence; and, the disposition of the stop, including whether a citation or summons was issued to, or an arrest was made of, any individual.<sup>66</sup>

**6. A public accounting of the status of community policing in Sacramento and Sacramento’s adoption of the 21st Century Community Policing Model.**

---

<sup>66</sup> Consent Decree, *United States v. New Orleans* ¶ 149; Consent Decree, *United States v. Cleveland* ¶ 260.

Both LEAD and the City agree that the SPD should adopt the various pillars of the 21st Century Community Policing Model, which was the result of extensive research and testimony by experts about how to protect and serve communities in modern times. **First**, the City's Response vaguely described the various ways in which the SPD is reflecting the 21st Century Community Policing Model. Unfortunately, many of these responses lack the level of detail required to evaluate whether the SPD successfully reflects the 21st Century Policing Model, including what specific efforts are being made and who is accountable for the SPD's progress. For example, for Pillar One, the City merely stated that the SPD "is committed to improving and enhancing procedural justice practices both internally and externally."<sup>67</sup> Such a commitment is too vague to actually measure, and LEAD requests further details that provide specific examples of programs and initiatives the City already has in place in each of the six pillars of the 21st Century Community Policing Model.

**Second**, the City's Response also discussed the SPD's Community-Oriented Policing and Geographic Policing models as means to promote community engagement and crime reduction. However, it is unclear how effective the SPD's Community-Oriented Policing and Geographic Policing have been in reducing crime. If the City is unable to measure the effectiveness of these policies, the raw data should be made publicly available (with confidential information redacted) so that others may do so.

**7. A public accounting on the effectiveness of the Sacramento Community Police Commission which should include data on exactly what they have accomplished. We believe that the Police Commission should be completely independent and make final determinations in cases involving an officer's use of deadly force, providing it with subpoena power, and a budget appropriate for meeting these responsibilities. We believe that the Police Commission should be directly accountable to the Mayor and City Council and not under the jurisdiction of the City Manager who is unelected. The City of Sacramento already has its own police accountability officer in the role and function of the City Attorney. The citizens deserve their own!**

A transparent civilian police review board is paramount toward building transparency, trust within the community, and instituting change. In 2015, the Deputy Inspector General of Los Angeles County identified many of the same points LEAD has raised to make "[i]ndependent

---

<sup>67</sup> City of Sacramento, City Manager John F. Shirey, City of Sacramento's Response to LEAD's 12-Point Call to Action, 5 (Oct. 10, 2016), <https://www.cityofsacramento.org/-/media/Corporate/Files/CMO/Media-Releases/Response-to-LEAD.pdf?la=en>.

investigative bodies . . . effective.” Writing for the Harvard Law Review Forum, the Deputy Inspector General stated that these bodies must have the “ability to investigate potential criminal wrongdoing by officers and make recommendations for prosecutions that are then evaluated by special prosecutors.” He went on to note that the agency must be transparent and independent from any law enforcement agency with “unrestricted access to officer and agency records.” In addition, “[i]t must be given a sufficient budget, the power to issue subpoenas, search warrants, and a well-defined jurisdictional mandate.”<sup>68</sup>

#### **A. Office of Public Safety Accountability**

Due to the City’s actions towards this goal on November 29, 2016, the Office of Public Safety Accountability (“OPSA”) will now report directly to the Mayor and City Council as opposed to the City Manager. In addition, the City allocated an additional \$375,000 to properly staff the OPSA. However, the OPSA does not have independent subpoena or investigative power. Instead, it can merely collect and track citizen complaints, recommend that the City Council issue subpoenas, and monitor police investigations. While the ordinances suggest that the OPSA may independently investigate matters as directed by the City Council, it is hard to imagine how they would be able to conduct such an investigation unless the City Council officially delegated its own subpoena power to the OPSA. Finally, the City needs to provide an accounting of how the \$375,000 will specifically be used to improve transparency and accountability within the SPD.

For example, the Baltimore Police Department committed to taking measures to be transparent about the complaints it receives, including considering publishing on its website the number of complaints in various categories of offenses, those sustained, and an explanation of each step of the process for disciplining an officer from the time the complaint was received until discipline is implemented.<sup>69</sup> This would be a step in the right direction for the OPSA.

#### **B. Sacramento Community Police Review Commission**

First, on November 29, 2016, the City created the Sacramento Community Police Review Commission (“SCPRC”). While LEAD supports the City’s efforts to foster community engagement within its police accountability programs, this civilian board must be given the

---

<sup>68</sup> Walter Katz, *Enhancing Accountability and Trust with Independent Investigations of Police Lethal Force*, 128 Harv. L. Rev. F. 235 (Apr. 10, 2015).

<sup>69</sup> Agreement in Principle between the US and the City of Baltimore Regarding the Baltimore Police Department, 5 (Aug 9, 2016), <https://www.justice.gov/opa/file/883376/download>.

tools to actually contribute to the solutions it seeks to implement. While providing that the SCPRC should be made up of civilian members who are neither former or current peace officers is a positive development, the SCPRC is merely a community advisory board that can only make recommendation regarding police policy without any mechanisms to actually hold public figures accountable based on these recommendations.

Even if the SCPRC's powers remain advisory, there should be routine audits of the process by which the SPD investigates complaints and transparency regarding action plans to be taken if questionable patterns emerge. In addition, there have been no details about a specific budget necessary to carry out its function.

**Second**, there are many questions that are unanswered by the City's Response. LEAD would like to follow up to get a public accounting of the accomplishments of the previous Sacramento Community Police Commission in order to get a sense of the effectiveness of its successor agency, the SCPRC. It is important to inquire as to whether the former police commission ever made any recommendations to the Mayor and City Council regarding bias-free policing, and which of these recommendations the City implemented. Also, the City stated that the Subcommittee was researching information on best practices from the police commissions from other jurisdictions; LEAD would like to review that research and participate in the discussion of what steps the City will take when it receives and reviews that information.

**Third**, the City's October 16, 2016 response and its actions in its November 29, 2016 meeting raise the question of why there are two peace officer accountability organizations with separate roles and powers. We believe there should be further discussion of the respective roles and authorities of the two entities, and how they might complement or overlap each other.

### **C. Necessary Powers of Effective Civilian Police Commissions**

In an effort to contribute to this process, LEAD has conducted research into the best practices of other jurisdictions and into various positions advocated by community organizations and policy research institutes. Jurisdictions from around the country have police commission review boards with many of the powers that LEAD has suggested.

For example, cities like Ferguson, Seattle, San Francisco, St. Louis, and others have given these review boards the power to review, make findings, and recommend disciplinary action for investigations involving complaints of police misconduct, the excessive use of force, abuse of authority, offensive language, and even mere discourtesy. These findings and

recommendations would be submitted to the Chief of Police for appropriate action within the department's disciplinary policies. These review boards would also have access to all the necessary information required to complete such investigations. Further, jurisdictions like Cleveland, Ohio also have set a standard requiring their officers to come forward and report the misconduct of fellow officers anonymously and confidentially. Campaign Zero's recommendation, for example, requires that the independent civilian oversight structures, including the Police Commission and Civilian Complaints office, have the ability to discipline and dismiss police officers, directly investigate police personnel, and determine actual policy.<sup>70</sup>

These review boards also are headed by civilians in many cases, have separate and independent budgets that are required to cover the necessary expenses of the review board, and often produce public operations manuals and reports summarizing complaint trends. These review boards have also been required to establish electronic numbering and tracking systems to record and classify complaints to track complaints of biased policing. Cleveland is a prime example of both of these emerging trends.

Yet another emerging trend is that of special and independent prosecutors. Both the Justice in Policing organization<sup>71</sup> and the President's Task Force on 21st Century Policing advocate the need for independent prosecutors to investigate police-involved killings. The City should examine further the idea of implementing a special prosecutor mechanism.

**8. A public accounting of the Police Department's efforts to get ongoing feedback from the community. We support Mayor Pro Tem Carr's request for regular customer satisfaction data by zip code, race and income level. This will allow all stakeholders to pinpoint where the problems are.**

Tracking citizen satisfaction with its police force is a novel idea and a welcome change to help engage the community, and we are pleased that the City supports this concept. First, however, we believe the City should take affirmative steps to establish a benchmark of citizen satisfaction surveys. There is currently no express mechanism for monitoring citizen satisfaction, which is quite different from a formal complaint process. In addition, it is unclear how effective the OPSA's process is for receiving, processing, and reviewing complaints.

---

<sup>70</sup> Campaign Zero: Community Oversight Policy Solutions, <http://www.joincampaignzero.org/oversight>.

<sup>71</sup> Justice in Policing, Policy 11: Special or Independent Prosecutors, <http://www.justiceinpolicing.com/policy-reforms/independent-oversight/policy-11-special-or-independent-prosecutors/>.

Perhaps the easiest way to remedy this gap is to expressly delegate to either the OPSA or SCPRC, the authority to set a budget for this data collection, and mandate quarterly time tables for these organizations to conduct the research and produce a public report that includes statistics on citizen satisfaction and takes into account citizen feedback in policy recommendations to the City Council. Further, there should be requirements set by the City Council that these organizations collect a statistically significant amount of community input. Other best practices from other jurisdictions for a data collection model include a centralized electronic numbering and tracking system to record and properly classify all complaints verbally or in writing, and also track complaints of biased policing;<sup>72</sup> requiring officers to carry complaint forms in their vehicles and provide them upon request, and an immediate notification of an officer's supervisor to assist the individual with the filing process;<sup>73</sup> and tracking and analyzing the level of trust communities have in police just as they measure changes in crime through annual community surveys.<sup>74</sup>

**Second**, the City should build accountability into citizen satisfaction trends. Perhaps the most productive way to achieve accountability is if the City sets benchmarks over a given period of time to incentivize the Chief of Police and the City Manager to improve citizen satisfaction and decrease the number of complaints. This could equip the City Council to perform appropriate oversight functions. Without such accountability in place, collecting citizen complaints and satisfaction surveys will be an exercise in futility because there will be little impetus for improvement.

**9. Public support for a policy of zero tolerance for officers who demonstrate racist behavior or a pattern of excessive force. These officers should be fired from the force.**

A zero tolerance policy for racist SPD officers, or for those who exhibit a pattern of excessive force, seems like an uncontroversial policy. The City's Response reiterated its zero-tolerance policy for officers that exhibit bias or a pattern of excessive force, which we appreciate. However, we think more should be done.

---

<sup>72</sup> Consent Decree, *United States v. Cleveland* ¶ 209.

<sup>73</sup> Consent Decree, *United States v. Cleveland* ¶ 205.

<sup>74</sup> *Final Report of the President's Task Force on 21st Century Policing*, 2 (May 2015) [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

**First**, in order to determine if these policies are indeed sufficient, the City should consider delegating responsibility to the OPSA and SCPRC to regularly collect and publish data relating to complaints by topic (e.g., racial profiling, excessive use of force).

**Second**, LEAD requests an accounting of how many times officers have been disciplined based on their violation of SPD policies on these subjects. In addition, what did these disciplinary actions entail; for example, was the officer terminated, demoted, placed on leave without pay, or simply given a warning and a note placed in their personnel file? Having a policy is only half the battle, and LEAD wants to ensure that these policies are being enforced. In so asking, LEAD respects the privacy of officers, and is not asking for specific names or other identifying information.

**Third**, the City's Response gives little insight into the disciplinary process, which may fall short of terminating problematic officers. LEAD would like an accounting of the termination process, which after additional research, does not appear to be publicly available. What procedures are afforded to officers when under investigation? What specifically would it take to terminate an officer who has a recorded pattern of using excessive force, or engaged in racial bias in violation of department policy?

**10. Public support for a policy that dictates the release of an officer who shoots an unarmed person.**

The City recently updated its use of force policy, and we understand that officers undergo extensive training to comply with this policy, which meets the requirements of Federal and State law. However, the City should not be content with meeting the minimum requirements when protecting and serving the community; instead, the capitol of the most progressive and vanguard state in the Union should be pushing the boundaries to preserve the rights of its citizens. The City should ensure that: (i) the use of force, specifically deadly force, is only used in the most exigent of circumstances after attempts have been made to de-escalate the situation and, if that fails, (ii) the use of force should commence with non-lethal weaponry such as rubber bullets, bean bag rounds, sprays, and taser technology.

**First**, the City's Response was silent as to disciplinary proceedings. LEAD would like a public accounting of how many times an SPD officer has been disciplined over the last ten years for shooting an unarmed person when such use of deadly force contravened SPD's use-of-force policy. This should include, if legally permissible, disciplinary information such as the scope of the violation and the discipline given (i.e., termination, administrative leave, counseling, retraining).

**Second**, the City does not have an automatic termination policy, but should have an automatic leave policy. Why not institute a policy that all officers that shoot unarmed persons in suspicious circumstances be placed on administrative leave, without pay, with a presumption of termination? In such heartbreaking situations, the burden should be placed on the officer to keep his job, not on the public to demand accountability. Oversight of compliance with this rule should be done by the OPSA or the SCPRC.

Several jurisdictions—including New Orleans, Seattle, and others—already require extensive investigations and reporting by independent review boards when an officer uses force by discharging his firearm. LEAD simply asks that Sacramento join other cities to institute these investigations and that officers under investigation be taken off the streets until the matter has been properly adjudicated.

**11. Public support for a comprehensive review and strengthening of police hiring. We urge you to act out of deep love and concern for the people you serve and not be swayed by the campaign contributions you receive from the Police and Fire Fighter Unions or any other entity. We demand fair, unbiased, independent, transparent policies, procedures, and oversight!**

The City stated the difficulty of hiring qualified employees and the intensely competitive recruitment process, but it has not expressed interest in heightening accountability and transparency in police hiring. As LEAD touched on above under No. 3, it would be helpful to have more fulsome accounting of data that shows which pipeline and diversity programs are actually working so that such programs can be expanded.

As for finding qualified applicants, the City should conduct research and implement the latest advances in social science to screen out persons who will not effectively serve the SPD or the community. Social scientists have proposed using various screening techniques in the recruitment and hiring of qualified police officers. For example, one approach is an actuarial approach using a screening technique that statistically compares applicants to positive or negative models.<sup>75</sup> Another approach is the usage of a personality scale, including an analysis of five broad personality constructs, to predict good police performance of an

---

<sup>75</sup> Ivory A. Toldson, *Profiling Police: Evaluating the Predictive and Structural Validity of an Actuarial Method for Screening Civil Liabilities Among Police Officer Candidates* (May 2006), <https://www.ncjrs.gov/pdffiles1/nij/grants/214121.pdf>.



applicant.<sup>76</sup> Using cutting edge recruiting techniques like these will further help the SPD recruit those best suited to protect and serve, and not those who may do damage to the community.

Further, if the City is truly committed to improving hiring and shaking up its hiring practices for the better, it should consider hiring a consultant to review the SPD's hiring and recruiting efforts and suggest changes. A recent study by the DOJ's Office of Community Oriented Policing acknowledged the benefit of engaging with outside consultants who had credibility with law enforcement that could help develop significant changes to recruiting program.<sup>77</sup> Such an auditor would most likely fit best reporting to the SCPRC, who in turn would make recommendations to the City Council.

**12. Public support for a change in current city policy leading to the reform of the Sacramento police accountability function to ensure the appointment of non-law enforcement affiliated staff, completely independent of the City Manager and the Police Department. The police accountability function should be performed on a truly autonomous basis complete with its own budget and modest staff sufficient to fully investigate allegations of inappropriate police conduct.**

Again, public transparency is key, and the OPSA and SCPRC must be given the tools they need to fulfill their roles. **First**, the OPSA has the power to monitor and review citizen complaints, and request the SPD to perform further investigation or request the City to issue a subpoena. However, the OPSA lacks the independent investigatory tools to truly hold the SPD accountable and to effect change. Further, the City has failed to provide an itemized accounting of the OPSA's budget.

**Second**, the City mentioned that the Subcommittee instructed staff to collect best practices of successful police commissions from other jurisdictions. However, at this time, LEAD is unsure if this report is still outstanding, if the report will be made public, or if the report was embodied in the City Council Report dated November 29, 2016. If this report is still outstanding, the City should specify when the comprehensive report will be completed and should make it publicly available.

---

<sup>76</sup> Beth A. Sanders, *Using Personality Traits to Predict Police Officer Performance*, Policing: An International Journal of Police Strategies & Management, 129-147 (2008), <http://www.emeraldinsight.com/doi/abs/10.1108/13639510810852611?journalCode=pijpsm>.

<sup>77</sup> Dr. Ellen Scrivner, U.S. Department of Justice Office of Community Oriented Policing, *Innovations in Police Recruitment and Hiring: Hiring in the Spirit of Service*, 61, <https://ric-zai-inc.com/Publications/cops-p090-pub.pdf>.

- 12. Public support for a change in current city policy leading to the reform of the Sacramento police accountability function to ensure the appointment of non-law enforcement affiliated staff, completely independent of the City Manager and the Police Department. The police accountability function should be performed on a truly autonomous basis complete with its own budget and modest staff sufficient to fully investigate allegations of inappropriate police conduct.**

Again, public transparency is key, and the OPSA and SCPRC must be given the tools they need to fulfill their roles. **First**, the OPSA has the power to monitor and review citizen complaints, and request the SPD to perform further investigation or request the City to issue a subpoena. However, the OPSA lacks the independent investigatory tools to truly hold the SPD accountable and to effect change. Further, the City has failed to provide an itemized accounting of the OPSA's budget.

**Second**, the City mentioned that the Subcommittee instructed staff to collect best practices of successful police commissions from other jurisdictions. However, at this time, LEAD is unsure if this report is still outstanding, if the report will be made public, or if the report was embodied in the City Council Report dated November 29, 2016. If this report is still outstanding, the City should specify when the comprehensive report will be completed and should make it publicly available.

Page 27

LEAD is grateful for the opportunity to continue this dialogue in an effort to produce the best reforms possible for the sake of all Sacramentans. We look forward to a robust conversation and are willing and eager to help with our expertise and resources.

Sincerely,

Mark. T. Harris, Esq.  
Co-Chair  
Law Enforcement Accountability Directive

Richard Owen  
Co-Chair  
Law Enforcement Accountability Directive

Rashid Sidqe  
Vice Chair  
Law Enforcement Accountability Directive