



City of Santa Cruz

Independent Police Auditor
Third Annual Report

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OIR

GROUP

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Executive Summary

The purpose of this annual report is to provide the Santa Cruz community our independent assessment of how the Santa Cruz Police Department (SCPD) addresses allegations of misconduct, scrutinizes its officers' use of force, and takes steps to foster accountability and agency improvement through review of those incidents.

As the Independent Police Auditor (IPA) for the City of Santa Cruz, our role involves several different components. First, we are available to meet with complainants who may want assistance in filing their complaint or to learn about the internal investigation process and our role in it. Second, we are in frequent contact with the SCPD's Professional Standards Unit to access and independently review completed complaint and use of force investigations. We review these investigations for their accuracy, completeness and timeliness, and provide our own assessment and recommendations. We also meet quarterly with the Chief and his Command staff to address policing issues and receive status updates on the progress of pending investigations. And we report to the public annually on the cases we have reviewed accompanied by a subsequent presentation to City Council. This report constitutes our third annual report.

Much of our previous annual report focused on the Department's system for investigating use of force and public complaints in a timely manner. Many of our recommendations addressed how to ensure that the Department was documenting, monitoring and completing its investigations without delay. In response to our recommendations, the Department took several immediate steps to address its backlog of use of force and public complaint investigations. The Department contracted with two independent investigators to complete some of its outstanding cases and assigned a new sergeant to head the Professional Standards Unit (PSU). The Chief, Deputy Chief and PSU sergeant now meet regularly to monitor the timeliness of investigations. The Department also enhanced its complaint process to capture the time, date and manner complaints are received and require interviews of and disposition letters to complainants. Additionally, the Department sought IPA suggestions to revise its written Complaint policy.

Although the review of officer-involved shootings and in-custody deaths are part of IPA's duties, to the Department's credit, none occurred during 2022. This report addresses our review of 33 use of force investigations and public complaint investigations the Department completed in 2022.

The Department also received and addressed 45 informational/inquiry cases in 2022, cases that, in its determination, did not allege violations of policy and did not require a full investigation. In contrast to past practices, the PSU sergeant immediately logged complaints, contacted complainants, reviewed body worn camera footage when available and responded to concerns raised in these cases. We were impressed with how quickly the PSU sergeant addressed these cases. We agree with the Department's current practice of addressing community members' inquiries or concerns that do not involve policy violations that do not necessitate a full-scale investigation.

Our report includes twenty-one recommendations. These recommendations stem from the individual cases we reviewed which indicated that the Department would benefit from enhancing some of its existing protocols. For example, we recommended that the Department re-evaluate its standard for Taser use and strengthen its use of force review procedures. The Department responded positively to our suggestions and promptly drafted policy that already addresses sixteen of our twenty-one recommendations that are set out in this report.¹

We appreciate the cooperation and receptivity with which SCPD continues to approach our oversight role. Additionally, we commend the Chief and his Command staff, including the Professional Standards Unit sergeant for their diligent efforts in addressing the previous backlog of cases.

¹IPA Recommendations addressed by newly drafted Department policy are asterisked throughout this Report. The remaining Recommendations are under consideration by the Department.

Outreach

Throughout the year, IPA team Michael Gennaco and Samara Marion fielded referrals and complaints regarding SCPD actions. The IPA team talked with complainants by phone and in one case, met a complainant at her home at her request. During the year, IPA also met with members from the ACLU, the NAACP, and staff from Housing Matters and Mercy Housing. Ms. Marion also attended the Chief's Advisory Committee meeting in October where she had an opportunity to talk with the Committee about the role of the Independent Police Auditor and meet representatives from several Santa Cruz organizations.

The IPA team met quarterly with the Chief and his staff throughout the year. In August, IPA presented its 2021 Annual Report to the City Council.²

Review of SCPD Investigations

In these next two sections, we summarize selected investigations that are particularly deserving of comment and reflection out of the 33 that we reviewed, focusing on uses of force. A chart summarizing all 33 investigations is attached to this report as an Appendix.

Use of Force

In our role as Independent Police Auditor, we examine the Department's internally initiated use of force investigations as well as public complaints

² In March 2022, IPA presented its 2021 Annual Report to the City Council's Public Safety Subcommittee in a closed session, a practice established before Michael Gennaco was appointed IPA. For increased transparency, IPA recommended and the City agreed to forego future "closed session" presentations of IPA's report to the Public Safety Subcommittee and instead simply provide a public presentation of IPA's Annual Report to the full Council.

involving use of force allegations. While most of the force we reviewed was relatively minor and did not result in serious injuries, any use of force is an exercise of police authority deserving of attention and critical review. Thorough scrutiny of these incidents sends a signal to both the public and to officers that the Department is paying attention to how it wields its authority, and provides an opportunity for the Department to address individual accountability as well as broader issues of performance, training, tactics, equipment, policy, or supervision.

In reviewing the Department's use of force investigations, we look for comprehensive fact-gathering, documentation that accurately reflects the force applied and surrounding circumstances, and an objective review of the incident to determine whether the force was reasonable and consistent with Department policies, training, and expectations. We also consider whether the Department conducted an insightful analysis of the *totality* of each encounter to provide a holistic review with an eye toward areas of potential improvement for both the involved officers and the Department as a whole.

Case No. 10 (Use of Force Investigation) Initiated by the Department

Incident Summary

In this incident, an officer was dispatched to conduct a welfare check on a person who had been yelling on the street for two to three hours. Due to a higher priority incident across town, no other units were available. Upon arrival, the officer observed an individual having trouble standing on the sidewalk, his pants down on his thighs with his buttocks exposed, and he had urinated on himself. The officer asked what was wrong. He said his leg was killing him. He did not respond when the officer asked if he needed an ambulance or medical attention. The individual was breathing heavily; as the officer approached, he said, "I'll be fine." The officer told the subject "nah, you've been getting f***ing calls on you."³

³ The use of gratuitous profanity should have been identified here as conduct unbecoming a SCPD officer and should have also been subject to intervention.

The officer moved behind the subject, reached into the subject's front pocket, pulled out a small folding knife, and said, "don't want you to do anything stupid." The officer grabbed the subject's right arm, started to bring it behind his back and told him to give him the beer bottle he was holding. The subject fell to the ground, landing on his side and the bottle shattered. The officer told him he should not have done that. The subject yelled, "shouldn't have done what?" The officer said "dude, you're super, super drunk and I just wanted to get the knife out of your pocket, man. Sit up, you okay?" The subject remained lying on his side, with his head on the sidewalk.

The officer held the subject's hands behind his back but then released them to remove a back pack the subject was wearing. The officer told the subject to sit up and tried to get him into a sitting position while the subject continued yelling "ouch, ouch." The subject sat up with his legs extended in front of him, both his hands visible. The subject did not respond when the officer again asked if he wanted to go to the hospital. The officer told the subject to put his hands behind his back and then grabbed the suspect's right arm. The subject said "f*** no" and put his left hand into his right hand and wove his fingers together.

The officer called dispatch and reported that the subject was "very 647 (f)⁴." The officer again told the subject to put his hands behind his back; the subject leaned back down on the ground, facing away from the officer, grunting and yelling "ouch, ouch." The officer told him he was going to jail. The officer put his hand on the subject's right shoulder, called dispatch and asked for a cover unit, saying the subject was very uncooperative. The subject continued yelling "ouch." With his hand on the subject's shoulder, the officer said, "hey, you're going to get tased, you want to get tased?" The subject said, "f***." The officer told him to "relax, relax" and to put his hands behind his back. The subject continued lying on his side, facing away from the officer, not moving.

The officer raised the subject's sweatshirt and placed the Taser on his back and activated it in drive-stun mode while holding the subject's right arm. The subject yelled. The officer placed the taser a second time on the subject's

⁴ Penal Code section 647(f) is a state law that criminalizes public intoxication.

lower back and activated it again. The subject's body flipped around to the other side. The officer pushed him to the ground and told him to stay on the ground. The subject yelled "f*** no." He remained on the ground with his back leaning away from the officer.

The officer backed up a few feet, said "Taser, Taser, Taser" and deployed the Taser in probe mode. The probes hit the subject causing him to lie flat on his back, his legs fully extended with his left hand across his chest and his right arm extended by his side. The officer next told him to turn over and put his hands behind his back or he would be tased again. The subject continued to yell "ouch, ouch" with his hands raised upward. As a police siren drew closer, the officer instructed him to stay right there.

When Officer #2 arrived, he observed Officer #1 pointing his Taser at the subject who was lying on his back, hands up in a surrender position and not moving. Officer #1 told Officer #2, "he just got tased." The subject said "how's it going?" Officer #2 grabbed the subject's right arm and lifted the right side of the subject off of the sidewalk as Officer #1 continued pointing his Taser. Officer #2 said, "no, no, no don't resist" as the subject continued to tense his arms. Officer #2 instructed Officer #1 to Taser the subject. Officer #1 activated his Taser and placed it on the subject's body. Officer #2 jumped back, appearing to have received a shock from the Taser. Both officers backed away from the subject. The subject, who was seated on the ground, also moved away from the officers and started pulling on the Taser wires.

Officer #2 ordered the subject to lie down on the ground. The subject did not comply and screamed that his leg was "f***ing broken" and he was "s***ting his pants." Officer #2 radioed for cover units. As the subject sat with his legs in front of him, hands visible and facing the officers, Officer #2 deployed his Taser in probe mode. The subject immediately fell backwards and screamed. Officer #1 attempted to grab the subject's arm and told him to turn over on his stomach. As the subject continued to tense his arms, Officer #2 drive-stunned the subject. Officer #3 arrived on scene. Officer #3 and Officer #1 each grabbed one of the subject's arms and handcuffed him. Officer #2 placed leg restraints on the subject. Officer #2 requested a medical assessment of the subject. A supervisor and paramedics responded to the scene.

The subject had fresh blood on his lower back and buttocks and appeared scraped from small pieces of glass where the subject was lying. The subject's pants were below his naked buttocks that were covered with fresh feces. Officer #2 removed three probes from the subject—one was lodged in the subject's sweatshirt on the right shoulder blade area of his back; one from the front area of his chest and one from the subject's jeans on the right front pant pocket area.

The subject was transported to the hospital by ambulance. The supervisor instructed Officer #2 and #3 to follow the subject to the hospital where he was medically cleared and then booked at the jail. Neither officer was injured.

All three officers activated body worn cameras during the incident. Body Worn Camera footage indicated that the subject was Tasered six times for a total of approximately 22 seconds during a two-minute span.

Supervisor Response and Report

On scene, a supervisor was briefed about the use of force during the incident. He oversaw the probe removal from the subject's body, collection of evidence and the transport of the subject to the hospital and the jail. The supervisor attempted to interview the subject who declined to speak to him while he awaited admission to the jail.

The supervisor's supplemental incident report entitled "supervisor investigation" documented his observations at the scene and the investigative steps he oversaw or took. His report noted that the subject had difficulty maintaining normal dialogue with anyone trying to ask him questions or follow directions though he was responsive to his name. He became very upset, yelled and screamed and then would quickly calm down and be quiet. An X-ray at the hospital determined the subject's leg was not broken. The supervisor's report recommended resisting arrest prosecution of the subject.

Lieutenant's Review

Eight weeks later, after reviewing body worn camera footage of the incident, a lieutenant requested the initiation of a Use of Force investigation. He identified concerns with the officers' on-scene decision making and tactics, the officers' communication (with the subject and between both officers) and potential out-

of-policy uses of the Taser. The lieutenant recommended that the investigation include Officers #1 and #2 and the supervisor who responded to the scene.

Administrative Investigation

The administrative investigation was assigned to a SCPD sergeant outside of the Professional Standards Unit (PSU). Use of Force and Conducted Energy Device policy violations were brought against Officers #1 and #2. The investigating sergeant interviewed the involved officers, witness officer and the Department's subject matter expert. The responding supervisor was not interviewed and no allegations were brought against the supervisor.

Department's Investigative Report and Conclusion

The investigating sergeant concluded that based on the legality of the initial contact, probable cause to arrest and the amount of force used to overcome resistance, the officers acted within department policy.

In assessing the officers' use of force, the investigating sergeant considered SCPD's Taser policy. The policy authorizes Taser use when the subject is violent or physically resisting or has demonstrated by words or actions an intention to be violent or to physically resist and reasonably appears to present the potential to harm officers, him/herself or others. (Policy 304.5.1). The policy states that the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.⁵ (Policy 304.5.2)

⁵ A Taser fires two small electrodes that are intended to penetrate a subject's skin like probes or darts, but remain connected to the weapon by wires. The darts deliver an electric current and, when both are fully embedded, cause incapacitation of the affected

The investigating sergeant's report summarized interviews of the involved officers, witness officer, and the subject matter expert and discussed each of the six Taser discharges. Below are highlights from the report.

Evidence of Subject's Violence

According to Officer #1, evidence that the subject was violent included that he had thrown himself on the ground, said "f*** no," was tensing up, and the officer had removed a knife and broken meth pipe from the subject's pocket. The officer was also concerned about the glass shards on the ground and not knowing when a cover officer would arrive. Additionally, Officer #1 had not (fully) searched the subject yet and the subject was in a fetal position with his hands in his waistband.

Taser Discharge #1 (Drive Stun) Officer #1

Officer #1 said that he had pinned the subject down on the ground and did not know how much longer the subject would stay in this position. He hoped the drive stun would cause the subject to release his hold, allowing the officer to place the subject on his stomach. The subject moved his body slightly after the first drive stun but not enough for the officer to get a hold of his hands. He said the subject recovered and kept his hands locked near the glass.

Taser Discharge #2 (Drive Stun) Officer #1

Officer #1 hoped that drive stun #2 would cause the subject to lie flat on his stomach but instead, it caused the subject to spin around. He said he was

muscles. It also causes considerable pain and involuntary muscle contraction that ends after an initial standard five-second cycle.

In drive stun mode, though, officers use the device to make direct contact with a subject without the darts. This causes localized pain but not incapacitation.

It is also possible to use drive stun mode to complete the electronic circuit and incapacitate an individual when a single probe has successfully made contact and the other is either ineffective or dislodged. However, the primary use of the Taser in this mode has historically been as a method of "pain compliance" in which the goal is to gain control of a subject by compelling him to surrender to stop the pain.

trying to maintain his Taser in his right hand, hold the subject down with his left, and maintain the tactical advantage of the subject's back.

Taser Discharge #3 (Probe Mode) Officer #1

Officer #1 said the subject was in a seated position facing away from the officer and he did not have a visual of the subject's hands. Officer #1 was standing behind the subject that provided the optimal target area—the lower back—for Taser deployment. He believed that if he missed this opportunity, the subject may get up and do something else. He said the subject was 100% resisting everything the officer did. He said he was attempting to calm down the situation by deploying the Taser for the 3rd time and that it was effective. The subject laid back and put his hands out. This was when he started hearing the police sirens in the distance. He told the subject to stay there and not move.

Taser Discharge #4 (Drive Stun/Probe) Officer #1

When Officer #2 arrived, Officer #1 told him that the subject had just been tased. Officer #2 walked up to the subject, started to sit the subject up and told him to put his hands behind his back.

Officer #1 said the subject started wrestling with Officer #2 in the glass and he heard Officer #2 say, "no, no, no, stop resisting." The subject said "f*** no!" As the subject continued to actively resist, Officer #2 told Officer #1 to tase the subject again. Officer #1 said that he tried to activate the drive stun function but instead did the 5-second deployment through the exposed Taser wires. He believed that during the struggle with Officer #2, the probes had disconnected. When Officer #1 pulled the trigger, he did not think it affected the subject but that Officer #2 who was touching one of the wires, received a shock and jumped back.

According to Officer #2, he approached the subject, grabbed his right hand, and as he rolled him over to his side, the subject tensed both arms. Officer #2 told him no several times and he also heard Officer #1 giving commands. When it became clear that the subject was not going to comply, he requested Officer #1 to use his Taser again. Concerning the threat the subject posed,

Officer #2 noticed broken glass on the ground. He did not have an opportunity to talk with Officer #1 when he arrived on scene. Due to the nature of the scene, Officer #2 believed maybe the subject tried to strike Officer #1 with the bottle and possibly had thrown it at him.

Taser Discharge #5 (Probe Mode) Officer #2

Officer #2 said that he and Officer #1 had created distance and wanted to avoid re-engaging so, Officer #2 transitioned to his Taser while Officer #1 holstered his Taser and prepared himself for a hands-on approach. Both officers gave the subject direction but he continued to yell and not comply. Officer #2 said the turning point was when the subject looked around several times as if he was looking for something to pick up. He looked down to his waistband and then put his hands down to the center of his waistband. Officer #2 said he was confident that the subject had not been searched and people carry weapons in the waistband area. Officer #2 said he did not warn the subject he was deploying the Taser because it was a split-second decision.

Taser/Drive Stun #6 (Drive Stun) Officer #2

Officer #2 said he drive-stunned the subject because he continued to resist and not follow orders. By drive-stunning him, Officer #1 was able to pull the subject's arm out, and put one handcuff on him. Upon arrival on scene, Officer #3 grabbed the subject's other hand and assisted in handcuffing the subject.

Department's Use of Force Expert

The investigating sergeant interviewed as a subject matter expert the Department's Defensive Tactics Cadre Supervisor. This sergeant oversees the training of the Defensive Tactics Instructors and the training offered to the officers. He is also a Use of Force instructor regarding firearms, less lethal kinetic energy projectiles, pepper spray, distraction devices, and pepper balls. He had reviewed all related reports and the body worn camera footage of the incident before his interview.

Expert Opinion About Officer #1's Actions:

The Department's expert found that Officer #1's use of Taser in both stun drive and probe mode was reasonable. The subject did not comply with Officer #1's request to sit down and hand over the glass bottle. When he fell to the ground

and broke the bottle, the pieces of glass became readily usable as weapons. The subject resisted the officer's attempts to handcuff him. The officer was alone, had the authority to arrest the subject who could not care for himself, the subject had created a disturbance, was unsafe around other people, possessed a knife, a beer bottle, and a meth pipe, had not been searched yet, and had concealed his hands.

Expert Opinion About Officer #2's Actions

The Department's expert found Officer #2's Taser deployments were within policy and the law. He pointed out that when Officer #2 attempted to go hands-on, the subject continued to conceal his hands and prevented Officer #2 from gaining control.

Expert Opinion About Areas for Improved Performance

Asked if things could have been done better or differently, the Department's expert noted that when Officer #1 decided to remove a backpack from the subject, he could have handcuffed the subject. He emphasized though that no policy violation occurred by declining to handcuff the subject at that time. He suggested a conversation with Officer #1 on the following topics:

- Officer #1 did not notify dispatch of his status and location until three minutes after his arrival. By this time, Officer #1 had already engaged the subject, removed a knife from his pocket, and the subject had fallen to the ground.
- Officer #1 had several opportunities to tactically disengage from the subject and wait for additional units.

Command Staff Review and Recommendations

A Command Staff member conducted a review, and found that although the investigation exonerated Officer #1, his overall performance needed improvement. The circumstances reasonably permitted the officer to consider actions that may have increased officer safety and decreased the need for using force. Specifically, Officer #1 could have considered disengaging from the situation and summoning additional resources to respond to assist. Officer #1 was required to participate in comprehensive tactical debriefing of the

incident and take sixteen (16) hours of training on practical de-escalation and tactical conduct related to this investigation.

The Command Staff member noted that although the investigation did not include an interview of the responding sergeant (which was a Departmental decision), the sergeant's performance as a field supervisor needed improvement. The supervisor was required to participate in comprehensive tactical debriefing of this incident, including a review of policy 300.7 (supervisor's responsibilities).

A lieutenant conducted a debriefing and oral counseling for Officer #1 and the supervisor.

Independent Police Auditor (IPA) Assessment

As noted above, the Department initiated an investigation into this case after a lieutenant's review of the body worn camera footage raised issues about the officers' on-scene decision making and tactics, the officers' communication (with the subject and between both officers) and potential out-of-policy uses of the Taser. The lieutenant's concerns were well-founded and they were not sufficiently addressed by the Department's subsequent evaluation of the incident. While command staff review included tactical debriefing for one of the involved officers and the supervisor, we are concerned about whether the SCPD sufficiently considered whether the application of the facts to current policy indicates the multiple deployments were consistent with that policy. Additionally, this incident presented an opportunity for the Department to re-evaluate its Taser policy and use of force review procedures.

Taser standard: Immediate Threat to Officers or Others

The responding officers and later the Department's reviewers of the incident focused narrowly on the subject's active resistance and did not appear to consider other significant factors relevant to assessing the reasonableness of an officer's use of force. While officers must consider the totality of the circumstances when selecting a force option, active resistance alone is typically insufficient to justify Taser use. For example, California Police Officer

Standards Training (POST)⁶ instructs that control holds and personal body weapons are appropriate to overcome a subject's active resistance. However, use of devices (such as a Taser) requires assaultive conduct such as verbally or physically displaying an intention to assault the officer.⁷ The Ninth Circuit has held that an officer's use of a Taser is more likely to be deemed excessive in situations where the suspect does not pose an immediate threat to the officer or others.⁸ Los Angeles Police Department's Use of Force policy illustrates this Constitutional standard for Tasers and other less-lethal control devices: "The Taser, Baton, Beanbag Shotgun, 40mm Less-Lethal Launcher and Oleoresin Capsicum are only permissible when there is an immediate threat to the safety of the officers or others."⁹

Courts have ruled that the most important factor in evaluating the reasonableness of force is whether the suspect posed an immediate threat.¹⁰ The Department's Use of Force policy lists "the apparent immediacy and severity of the threat to officers or others" as the first of several factors when

⁶ POST sets minimum training standards for all California law enforcement personnel.

⁷ California Police Officer Standards Training (POST) Learning Domain 20, Use of Force/Deescalation Version 5.4, Chapter 3: 3-6 (April 2021).
https://post.ca.gov/portals/0/post_docs/basic_course_resources/workbooks/LD_20_V-5.4.pdf

⁸See e.g. *Bryan v. McPherson* (9th Cir. 2010) 630 F.3d 805, 826–30 (9th Cir. 2010) (use of a Taser unreasonable because suspect committed a minor traffic infraction and did not present an immediate threat); see also *Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433, 445-46, (a fact-finder could find that the use of a Taser was excessive force when the traffic stop involved a minor offense and the suspect did not present an immediate threat to the officers, even though she refused to exit her car).

⁹ See LAPD Use of Force policy, Section 573
<https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2023/01/VOLUME-1-word.pdf>

¹⁰ See *Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433, 441 (en banc); also *Smith v. City of Hemet* (9th Cir. 2005) 394 F.3d 689, 702.

determining whether to apply force and evaluating whether an officer has used reasonable force. However, the officers' explanations for Taser use did not articulate an immediate threat; nor did the Department's evaluation. And SCPD's current Taser policy does not require assaultive conduct or a threat thereof before deployment would be authorized.

In this case, the Department's subject matter expert stated the subject was in possession of weapons (a pocketknife, 40-ounce beer bottle, meth pipe and a syringe found on the ground). However, at the time Officer #1 deployed his Taser, Officer #1 had already removed the folded knife and meth pipe from the subject's pocket. While the shattered glass on the ground from the subject's beer bottle and syringe could have potentially been used as a weapon, the subject did not appear cognizant of their presence.¹¹ The BWC footage depicted a subject actively resisting the officers' attempts to put his hands behind his back and handcuff him. However, neither the subject's statements nor his actions indicated an intention to assault or threaten the officers.

When Officer #1 used the Taser in stun mode the first two times, the subject was lying with his head on or near the ground in a fetal position, facing away from the officer and motionless. He was neither moving nor saying anything threatening. When Officer #1 next deployed his Taser in probe mode, the subject's back and head were leaning toward the ground and away from the officer and the officer was a few feet away from the subject. The subject did not say anything or position his body in any manner that indicated he intended to move towards or threaten the officer.

When Officer #2 arrived on scene, the suspect was lying prone on the ground, both hands visible and pointed upward while Officer #1 had his Taser pointed at him. His actions posed no immediate threat to the officers. When Officer #2 next grabbed the subject's arm, the subject resisted and Officer #2 told Officer #1 to Taser the subject. The subject's actions appeared to constitute active resistance. Regardless, Officer #1's Taser activation shocked Officer #2, causing Officer #2 to jump back and away from the subject. The distance

¹¹ Courts require objective factors that demonstrate an immediate threat. See *Deorle v. Rutherford* (9th Cir. 2001) 272 F.3d 1272, 1281 ("a simple statement by an officer that he fears for his safety or the safety of others is not enough; there must be objective factors to justify such a concern.")

between the two officers and the subject could have provided an opportunity for the officers to reassess their next step, including the effectiveness of further Taser deployment.

Officer #2's justification and the Department's review of his Taser deployments did not explain how the subject posed an immediate threat. The Department's review should have also addressed that Officer #2 did not provide a verbal warning before deployment and did not document the reason he gave no warning as required by policy.¹²

At the time Officer #2 deployed his Taser, both officers were standing a few feet away. The subject was sitting on the ground, with his legs in front of him; his hands were visible and he had started pulling on the Taser wires. Officer #2 told him to stop and ordered the subject to lie down on the ground. According to Officer #2, the subject looked down and side by side, possibly looking for an impromptu weapon. He brought his hands toward his beltline which, based on Officer #2's training and experience, can indicate a concealed weapon. The subject screamed that his leg was "f***ing broken" and he was "s***ting his pants." Without providing a warning, Officer #2 deployed his Taser in probe mode, causing him to immediately fall backwards. When Officer #1 attempted to grab the subject's arm and met resistance, Officer #2 drive-stunned the subject.

¹² Department Policy 304.4 Verbal and Visual Warning

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER device may be deployed.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

Although the BWC footage shows the subject pulling on Taser wires and looking down and to his side for a moment, he remained seated with his hands visible to the officers and made no threatening movement. Nor did BWC footage depict an urgency that justified foregoing a warning before Taser deployment. Department policy requires warning documentation including when no warning is provided. The Department's reviewers should have evaluated whether the subject posed an immediate threat and also assessed Officer #2's failure to warn and failure to document the lack of a warning.

RECOMMENDATION ONE: The Department should revise its Taser policy to permit Taser use only when there is an immediate threat to the safety of the officers or others, consisting of observable assaultive behavior or the threat thereof or flight from felony arrest.*

The involved officers and the Department's reviewers of the incident should also have considered several other factors to determine whether Taser deployment was reasonable. The Department's Use of Force policy includes factors such as the effects of drugs or alcohol, the individual's apparent mental state or capacity, the individual's apparent ability to understand and comply with officer commands, and the seriousness of the suspected offense or reason for contact with the individual.¹³ Neither the involved officers nor the Department's evaluation of the reasonableness of the officers' force sufficiently address these important factors.

The BWC footage suggests that the subject's level of intoxication significantly impacted his ability to understand and comply with officer commands and even control his body. Officer #1 described the subject "throwing himself" on the ground and dropping his beer bottle as an act of physical resistance. In contrast, BWC footage showed an individual staggering, often incoherent in speech, and becoming unbalanced and then falling when Officer #1 grabbed hold of the subject's arm. Even the supervisor who on scene after the Taser deployments noted that the subject had difficulty maintaining normal dialogue with anyone trying to ask him questions or follow directions.

¹³ See SCPD Policy 300.3.2 for a list of nineteen factors used to determine whether to apply force and evaluating whether an officer has used reasonable force.

Moreover, the subject’s behavior appeared to be the product of both intoxication and mental health instability—factors that both the responding officers and later the Department’s reviewers should have considered. Courts consider the reasonableness of use of force in light of whether officers knew that an individual was mentally unstable.

The severity (or lack thereof) of the crime is another important factor that SCPD’s use of force policy specifies should be considered in evaluating the legitimacy of the force. The police contact here originated as a welfare check on an extremely inebriated individual who had urinated on himself, was partially naked, and was yelling for several hours. As the Ninth Circuit pointed out two decades ago with equal relevancy to the instant case: “The problems posed . . . by an unarmed, emotionally distraught individual who is creating a disturbance . . . are ordinarily different from those involved in law enforcement efforts to subdue an armed and dangerous criminal In the former instance, increasing the use of force may . . . exacerbate the situation.” *Deorle v. Rutherford* (9th Cir. 2001) 272 F.3d 1272, 1283.

RECOMMENDATION TWO: SCPD should ensure that when its supervisors evaluate uses of force that they consider each of the relevant factors articulated in its policy.*

Neither the involved officers nor the Department’s reviewers addressed whether the multiple applications of the Taser were warranted. As previously discussed, after Officer #2 disengaged from the subject after being shocked by Officer #1’s Taser, the officers’ distance from the subject and his seated position on the ground provided them an opportunity to reassess. At this time, the subject had been Tasered four times by Officer #1—twice in drive-stun mode for approximately one second each, and twice in probe mode for approximately 5 seconds each time.¹⁴ SCPD’s policy states that multiple

¹⁴ This estimate is based on BWC footage. The Department’s investigative file did not include any data generated by the Taser itself concerning the number of discharges, their duration and time between discharges.

applications against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications. (Policy 304.5.4.). The policy also instructs officers to consider factors such as the individual's ability and opportunity to comply and whether verbal commands, other options or tactics may be more effective before additional Taser applications. (Policy 304.5.4.).

Multiple activations and continuous cycling of a Taser have been observed to be associated with the risk of death or serious injury. The Taser manufacturer, Axon Enterprise, Inc., warns that the number and duration of energy weapon exposure should be minimized.¹⁵ Since 2011, Police Executive Research Forum (PERF) and the Department of Justice's Office of Community Oriented Policing Services (COPS) recommend that officers be instructed that taser exposure for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Any subsequent application should be independently justifiable and the risks should be outweighed by other force options.¹⁶ Other tactics—including talking with the subject or waiting for another officer—were options that merited consideration, particularly in light of the previous Taser applications, the subject's intoxication, mental instability, and that the police response initially involved a welfare check. Notably, once Officer #3 arrived on scene, Officer #1 and #3 each grabbed one of the subject's arms and handcuffed him, an effort that involved significantly less force than the previous multiple Taser deployments.

¹⁵ See *TASER Handheld Energy Weapon Warnings, Instructions and Information: Law Enforcement*, September 20, 2022, page 3. https://axon-2.cdn.prismic.io/axon-2/19c2d86c-c983-4d9f-bdd6bdb8ce29c_Law+Enforcement+Warnings+8_5x11.pdf

¹⁶ PERF & COPS, *2011 Electronic Control Weapon Guidelines* (March 2011), pages 19-20 20; <https://www.ojp.gov/ncjrs/virtual-library/abstracts/electronic-control-weapon-guidelines-2011>

The involved officers provided some but not complete estimates of the duration for each of their Taser activations in their police reports—a requirement of the Taser policy. However, SCPD did not download any of the Taser data concerning the number, duration and strength of activations. To the Department credit, its use of force review identified and analyzed the circumstances of each Taser activation. However, Department reviewers did not mention or consider that the subject appeared to have been Tasered for at least 22 seconds during a two-minute span. The Department’s review should identify and assess the appropriateness of each officer’s Taser activation as well as the individual and cumulative duration of Taser activations.

RECOMMENDATION THREE: The Department should revise its Taser policy to require officers to document the justification for multiple applications of a Taser and Taser exposure longer than 15 seconds.*

RECOMMENDATION FOUR: The Department should revise its Taser policy to require that the Department’s review of a Taser incident includes whether multiple applications of the Taser or Taser exposure for longer than 15 seconds was justified.*

RECOMMENDATION FIVE: The Department should revise its Taser policy to require that post-Taser deployment, the reviewing sergeant download the Taser use data concerning the event, including but not limited to the number of discharges, amount of time for each discharge, time between discharges, and probe or stun mode application.*

We have additional observations about the officers’ actions during this incident and the Department’s subsequent use of force analysis.

- The lieutenant raised concerns about the communication between the officers and the subject which was never addressed during the Department’s review. BWC footage did not show any discussion when Officer #2 arrived on scene other than Officer #1 informing Officer #2

that the subject had just been tased.¹⁷ Officer #1's Taser was pointed at the subject and the subject was compliant. Thus, there was no urgency that required Officer #2 to grab hold of the subject without any warning or planning. Officer #2 could have attempted to gain rapport with the subject to give him an opportunity to comply before grabbing the subject. Nor did Officer #2 communicate with the subject that his failure to lie down on his stomach would result with another Tasing. We recommend that any use of force review assess the effectiveness of officer's communication with each other and the subject during the incident.¹⁸

RECOMMENDATION SIX: The Department should adopt policy that requires use of force review to assess the effectiveness of communication by involved personnel.*

- The lieutenant who initiated the use of force investigation indicated that the inquiry should include the responding supervisor. No allegations were brought against the supervisor and the supervisor was not interviewed during the investigation. The investigative file did not explain or document why no allegations were brought against the supervisor and why the supervisor was not interviewed, other than briefly noting it was a Department decision. The Department should bring all relevant allegations of potential misconduct against involved officers and supervisors. In the circumstance where allegations are identified and then deemed inappropriate, the Department should document the reason why the allegations are no longer appropriate.

RECOMMENDATION SEVEN: The Department should adopt a policy that requires all relevant allegations of potential misconduct against

¹⁷ The Department's expert said that Officer #2 communicated effectively with his partner although there is scant evidence of this on the body worn camera footage.

¹⁸ Moreover, as we discuss elsewhere in this report, a result of state legislation enacted subsequent to this incident, the Department should also review any efforts at de-escalation as part of its review of force incidents.

involved officers and supervisors be brought. Any recommendation suggesting that a member should be named as a subject but then not followed should be documented and explained in the investigative file.*

- The Department's review did not address that Officer #2 was accidentally shocked after he instructed Officer #1 to Taser the subject again and how to prevent this from occurring in the future.

We note that the Department's Taser policy requires that a TASER instructor team should periodically analyze the reports to identify trends, including deterrence and effectiveness. (Policy 304.6). We assume that the Taser instructor team would provide useful expertise to address the accidental shocking of Officer #2 and how to avoid this undesirable result in the future. We suggest expanding the Taser instructor team's responsibility to analyze all reports involving Taser deployment and to provide recommendations concerning tactics, decision-making, policy, training and supervision related to their subject matter expertise and incident review.

RECOMMENDATION EIGHT: The Department should revise its Taser policy to require the Taser instructor team to analyze all reports involving Taser deployment and to provide recommendations concerning tactics, decision-making, policy, training and supervision related to their subject matter expertise and incident review.*

- Although SCPD's policy identifies certain individuals as being more susceptible to the effect of a Taser,¹⁹ it does not include individuals suffering from drug intoxication. The manufacturer warns that its Taser can cause physiologic or metabolic changes that may increase the risk

¹⁹ SCPD's policy states that the use of Tasers should generally be avoided on pregnant, elderly, juvenile, low body mass and handcuffed individuals and those recently sprayed with a flammable chemical agent or position could result in collateral injury unless other available options are ineffective or would present a greater danger to the officer or others and the need to control outweighs the risk of using the device. (See 304.5.2).

of death or serious injury for some particularly susceptible individuals. Particularly susceptible individuals include people suffering from excited delirium, profound agitation, severe exhaustion, drug intoxication or chronic drug abuse, or over-exertion from physical struggle. We recommend that the Department revise its Taser policy to address the increased risks that the Taser (including single and multiple activations) poses to susceptible individuals that the manufacturer has identified.

RECOMMENDATION NINE: The Department should revise its Taser policy to address the increased risks that the Taser poses (including from single and multiple activations) to susceptible individuals that the Taser manufacturer has identified.*

- This case raises concern about the use of the Taser in drive stun mode. SCPD policy on drive stun mode states:

Because the application of the TASER device in the drive stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions. (SCPD Policy Manual 304.5.2)

In this case, Officer #1 initially drive stunned the subject twice in his back while attempting to gain control of his arms for handcuffing; Officer #2 also described drive stunning the subject to assist Officer #1 in gaining control of the subject's arms. These drive stun activations appeared to us as a simple pain compliance technique and not used "to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions." This conclusion is buttressed by the officers who did not articulate that their use of the Taser in stun drive mode was an effort to gain separation from the subject.

Since 2011, the Police Executive Research Forum (PERF) and the Department of Justice's Office of Community Oriented Policing

Services (COPS) have cautioned that using drive stun mode “to achieve pain compliance may have limited effectiveness and, when used repeatedly, may even exacerbate the situation.”²⁰ PERF and COPS recommend that law enforcement agencies discourage use of the Taser as a pain compliance tactic. Additionally, the manufacturer of Taser warns that drive stun use may not be effective on emotionally disturbed persons, those under the influence of alcohol or drugs, or others who may not respond to pain due to a mind-body disconnect. Avoid using repeated drive-stuns on such individuals if compliance is not achieved.”²¹

We recommend that during any force review, the Department scrutinize any use of the Taser in drive stun mode to ensure that it meets the limited exceptions set out in policy.

RECOMMENDATION TEN: The Department should ensure that careful attention be placed on the review of any Taser use in drive stun mode to ensure that it meets the limited exceptions set out in policy.*

Our case review also indicated areas to enhance the Department’s review of Use of Force incidents. Currently, when a reported use of force occurs, officers are required to notify a supervisor who is expected to come to the scene. In addition to the supervisor’s on-scene duties, the supervisor is also required to evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate. (Policy 300.7). While

²⁰ See PERF & COPS, *2011 Electronic Control Weapon Guidelines* (March 2011), pages 14, 19.

²¹ https://axon-2.cdn.prismic.io/axon-2/19c2d86c-c983-4d9f-bac4-dd6bdb8ce29c_Law+Enforcement+Warnings+8_5x11.pdf. See also, Camden County Police Department which prohibits use of the drive stun mode unless it is “immediately necessary to protect the officer, the suspect, or another person from imminent danger of death or serious bodily injury. Camden County Policy Conducted Energy Devices (Dec 2020) .

the Department has talked about a debriefing practice after incidents, it does not appear that the Department has a formal system for ensuring supervisor review of force incidents. We noted that in this case, the supervisor documented the investigative steps he oversaw or performed but there was no evidence in the investigative file that the supervisor evaluated the circumstances surrounding the incident.

The Department's review process for non-deadly force incidents would benefit by delineating the expectations and duties of reviewing supervisors and command staff in its use of force policy. Supervisors should evaluate not only whether the force complied with policy but also identify performance and agency issues concerning tactics, decision-making, planning and coordination, choice of force options, de-escalation efforts, equipment or supervision. While this analytical process starts with the initial field supervisor—it should not end there. The supervisor's assessment should be routed up through the chain of command for review, approval and appropriate action. Sergeants and supervisors up the chain of command²² should be encouraged to ask probing questions as they review each force incident, including whether officers did all they could to de-escalate situations and reduce the likelihood of force. This type of holistic review signals the Department's commitment to learn from the incidents with the goal of providing officers training, strategies, and tactics that effectively respond to the complex challenges in the field with minimal use of force.

RECOMMENDATION ELEVEN: The Department should revise its Use of Force policy to define supervisors' duties to document and review a reportable force incident.*

²² We noted that in the current case there was no indication in the investigation file that the Lieutenant who initiated the investigation was provided the opportunity to review and provide input on the investigative findings and recommendations. We believe that this multi-tiered review process is essential to ensuring a more holistic review.

RECOMMENDATION TWELVE: The Department should revise its Use of Force policy to identify each reviewer in the chain of command and their incident review duties.*

The supervisor’s use of force evaluation—including identifying any potential misconduct—is also critical to the Department’s ability to complete its investigation and impose discipline for misconduct within the statutory deadline—an issue we discussed at length in our 2021 Annual Report discussed. The date of the agency’s discovery of potential officer misconduct for statute of limitation purposes occurs when an officer with authority to initiate an investigation is made aware of the misconduct.²³ In this case, a court would likely find that the agency’s discovery of potential officer misconduct occurred two months before the lieutenant’s initiation of the investigation when the supervisor conducted his use of force investigation. The investigative file indicated correspondence with the involved officer in January and March 2022 about the Department’s conclusions after the one-year statute of limitation would have expired. Had the Department determined discipline was merited, it would have been precluded from doing so. We recommend that the Department identify the one-year statute of limitations date for each administrative investigation based on the earliest date that an officer with authority to initiate an investigation knew or should have been aware of potential misconduct.

RECOMMENDATION THIRTEEN: The Department should identify the one-year statute of limitations date for each administrative investigation and actively monitor and ensure that the Department’s internal review and notification of potential discipline to involves officers are provided within the statutory period.

²³ California Government Code §3304 (d)(1) states that “except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency’s discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct.”

Case No. 3 (Use of Force) Public Complaint

This case involved the complainant's allegation that an officer had used excessive force during arrest and had stolen property from the complainant's jacket. The complainant submitted the complaint four years after the incident. The previous PSU sergeant received the complaint but did not initiate an investigation. With the change in personnel, the new PSU sergeant initiated an investigation. The complainant's arrest occurred before the Department equipped officers with body worn cameras (BWC) and thus, no video footage of the complainant's arrest exists.

The PSU sergeant interviewed the complainant, the involved officer and witness officers in addition to arrest reports. The involved officer reported that while attempting to secure the complainant's seat belt after the complainant had been placed in the patrol car, the complainant spit in his face, attempted to kick him, and spit on him a second time. The officer used a pain compliance pressure point on the complainant's jaw and struck the complainant one time with his forearm. Witness officers and reports corroborated the involved officer's account. No valuables in the jacket's pocket were booked into evidence and the complainant did not advise the involved officer of any valuables. The Department concluded that the officer's use of force was within policy and that there was no evidence of theft. Command staff review of the completed investigation noted that it had not been completed in a timely manner. IPA found that the Department's findings of exoneration and unfounded are supported by the evidence.

Case No. 31: Use of Force (Initiated by the Department)

Incident Summary

An officer (hereinafter Officer #1) responded with three cover officers to a call of a suicidal individual at a temporary homeless shelter. Staff said the individual had talked about cutting his wrists and had asked others at the shelter for a knife.

Intending to take the individual into custody for involuntary mental health detention, Officer #1 and the cover officers contacted the individual at his bed inside the shelter. Using his first name, Officer #1 asked how he was doing

and why he had been telling people he wanted to slit his wrists. The individual said he was fine and denied telling anyone that. Officer #1 said, "So you don't want to hurt yourself or anyone else?" He said, "no." Officer #1 said "perfect," and then grabbed his wrist. He asked, "what are you doing?" as Officer #1 and a cover officer pulled his hands behind his back and started handcuffing him. Stating that he was handicapped, Officer #1 replied, "I don't care if you're handicapped." Officer #1 asked if he needed the wheelchair that was next to his bed and he said yes. A cover officer told him they would help him get into the chair and he asked "What for?" Officer #1 told him "to go to the hospital." As Officer #1 held onto his arm, he said, "Don't grab me like that, bitch." Officer #1 replied, "Actually, I prefer the word c***, so thank you." The individual stated, "You are a c***."

The individual yelled as Officer #1 lifted and pulled him by his right arm into the wheelchair. He turned his head toward Officer #1, said "f*** you" and spit. He said, "Bring me my s***" (likely referring to his belongings) as Officer #1 began wheeling him out of the shelter. Officer #1 replied, "Oh, I don't give a s*** about your s***" and continued wheeling him out to the parking lot outside.

Several feet away from the patrol car, Officer #1 brought the wheelchair to a stop. The individual said: "You're really something" and Officer #1 replied, "yeah, you spit on me again..." and the individual said "F*** you, n*****!" Officer #1 pulled over his mouth the individual's face mask which had been below his chin and requested a cover officer to obtain a spit mask. When the individual asked why, Officer #1 replied "Cuz you're a dick."

As Officer #1 began searching the individual's left side, he lunged his head in her direction. Officer #1 struck the left side of his head with her open right hand and pushed his head down. He called her a f***ing c*** and bitch. The cover officer approached and put the spit mask over his head. Asked by the cover officer if he was ready to get up, he cursed and said he could not stand.

Officer #1 and the cover officer lifted the individual to a standing position and began walking him to the patrol car which was parked about six feet away. After moving a few feet, the individual collapsed to the ground. Officer #1 held onto the individual's handcuffs by the chain up at her waist level as he collapsed, causing his arms to be brought up behind his back in an arm bar

position. She held his arms in this position for several seconds and said, “that’s for spitting on me” as he cried and yelled “ow, ow, ow.”²⁴

Officer #1 and the cover officer lifted the individual to a standing position again but were unable to lift him into the back seat. He collapsed to the ground. With the help of the second cover officer, the individual was pulled into the passenger compartment. The individual continued to cry and yell “my feet” while being lifted into the vehicle. When the second cover officer said the individual’s toe was bleeding, Officer #1 said, “Because we dragged him...which I’m fine with, ‘cause he spat on me.”

Officer #1 drove him to a psychiatric facility. When the facility refused the individual’s admission, Officer #1’s supervisor responded and arranged the individual’s transport by ambulance to another facility. A short time later, Officer #1 was dispatched back to the psychiatric facility because the individual had become uncooperative with staff. Upon seeing Officer #1, the individual attempted to punch her which she deflected. She applied a control hold as he was secured to the gurney. The individual was transported by ambulance to another hospital.

Later that night Officer #1 told her supervisor that the individual had spit on her at the shelter and attempted to punch her when she had returned later to the psychiatric facility. She said that she deflected the punch and placed the individual in a control hold until he was secured to the gurney. The supervisor conducted a use of force investigation based on the individual’s spitting and attempted punch of Officer #1.

Officer #1 documented the individual’s psychiatric detention in an incident report. Her report did not include her open-hand strike to the individual’s head nor the raised arm maneuver she had used on him in the parking lot. She documented the individual’s assault and battery against her in a separate

²⁴ Officer #1’s BWC footage shows the individual collapsing to the ground and he can be heard crying as Officer #1 said, “That’s for spitting on me.” One of the cover officer’s BWC footage shows Officer #1 holding the individual’s handcuffs by the chain at waist level, causing his arms to be brought up behind his back in an arm bar position for several seconds.

report with a recommendation that the individual be prosecuted by the District Attorney's office. As part of his use of force investigation, the supervisor reviewed BWC footage of Officer #1 and two cover officers. The supervisor recommended his report be forwarded to the District Attorney's office for considerations of charges against the individual.

On May 26, 2022 after reviewing Officer #1's BWC footage as part of the criminal filing procedure, the District Attorney contacted the Department regarding Officer #1's conduct. The District Attorney had concerns about the manner in which Officer #1 comported herself and the language she used. A Command Staff member reviewed BWC footage of the incident, confirmed that Officer #1's language and behavior potentially violated department policy and also noted a possible out-of-policy use of force application. The Department initiated an administrative investigation.

Administrative Investigation

The PSU sergeant conducted a comprehensive review of BWC footage from the involved and witness officers and incident reports. He interviewed the witness officers, the supervisor and the involved officer. He noted that Officer #1 neither notified her supervisor of her use of force nor documented the open-hand strike and the arm-bar technique she applied to the individual. He concluded that the officer's language and manner in which she comported herself violated the Department's standards of conduct. (Policy 320.3.2.). He found that the open hand strike to the individual's head was reasonable in light of him lunging his head toward her and his prior spitting. He found that Officer #1's holding of the individual's handcuffs in a raised position behind his back violated the Department's Use of Force policy and was applied to cause pain in retaliation for being spit upon. Although Officer #1's action of dragging the individual from the distance of the wheelchair to the patrol car caused abrasions on the individual's feet, he concluded it was not an intentional use of force and thus, recommended a not sustained finding. A Command Staff member concurred with the findings and notified the officer of the Department's intent to discipline.

IPA's Assessment

The Department promptly responded to concerns raised by the District Attorney, conducted a comprehensive investigation, and made sound findings in this case. It also notified the officer in a timely manner of its intent to impose discipline. For these actions, the Department is to be commended.

We note, however, that the officer's use of retaliatory force only came to light due to the District Attorney's concern about the officer's language and behavior while reviewing the officer's BWC footage for potential criminal prosecution of the individual.

From our view, this case illustrates the vital role the field supervisor should play in a use of force review that includes not only an evaluation of whether the force complied with policy but also identifies an officer's performance issues such as communication, tactics, decision-making and de-escalation efforts. Here, Officer #1's supervisor reviewed Officer #1's BWC footage as part of his use of force investigation and found that the video was consistent with Officer #1's account of being spit upon by the individual. When the supervisor reviewed Officer #1's BWC footage, he was unaware that Officer #1 had used force on the individual at the shelter because she did not tell him about the retaliatory arm-bar and open-hand head strike. Thus, his narrow focus on confirming Officer #1's account of being spit upon is understandable.

Nonetheless, Officer #1's language and comportment deteriorated within the first few minutes of her interaction with the individual that preceded the spitting incident. A review of this initial footage where Officer #1 said she did not care that the individual was handicapped and her willingness to take the discourse to the coarse level that it did should have prompted concern about her ability to interact and communicate appropriately with a suicidal individual. The manner in which she reacted instead of maintaining professionalism should have resulted in further scrutiny of her conduct throughout the entire incident.

RECOMMENDATION FOURTEEN: The subject officer's supervisor should be required to participate in a comprehensive debriefing about this incident, including his evaluation of his subordinate's performance throughout the incident.

Case No. 16 (Use of Force) Public Complaint

Incident Summary

On the day of the incident, officers responded to a domestic disturbance custody call that had become physical between the subjects. Dispatch advised officers that the call might involve a custody issue and confirmed a \$100,000 felony Parental Abduction warrant for the mother.

When Officer #1 arrived on scene, in the driveway of the residence, the mother was holding onto the daughter with both arms wrapped around the daughter's body. The father was behind the mother, holding her around the hip area. Officer #1 told the parties to separate. The father complied and moved away from the mother and daughter. Officer #1 grabbed hold of the mother who tightened her grip on the daughter. Officer #2 and Officer #3 arrived on scene; Officer #2 assisted Officer #1 in handcuffing the mother. The daughter was screaming and crying for her mother. Officer #1 told Officer #3 to try to separate the daughter from the mother, and Officer #3 grabbed hold of the daughter's arm. When Officer #3 grabbed hold of the daughter's arm, the daughter fell to the ground. BWC footage showed that the daughter's foot was wedged in between the mother's legs. Officer #1 and his trainee, Officer #2 walked the handcuffed mother to a nearby patrol car.

On the ground, the daughter continued screaming for her mom, kicking and lunging with her mouth open toward Officer #3. She continued to cry and scream. After she was handcuffed, officers lifted her from the ground and attempted to have her walk but she resisted walking and continued screaming, crying and kicking. Officer #1 pushed her against a patrol car, requested shackles and then did a leg-sweep takedown on her, placing her face down on the ground with her hands cuffed behind her. Officer #3 placed shackles on her ankles.

Officers carried her to the patrol vehicle and lifted her into the back seat. She continued screaming and crying for her mother. She hit her head on the Plexiglass divider of the patrol vehicle. Officer placed a protective foam helmet on her head. When a supervisor arrived on scene, he talked with the daughter as she sat screaming and crying in the patrol vehicle. An on-scene mental health liaison placed a mental health hold on the daughter (Welfare and

Institutions Code 5585) . Another on-scene officer transported the daughter to the hospital. She had abrasions on her knee which the officer photographed.

Five days earlier, the father had contacted SCPD officers requesting assistance to regain custody of his 13-year old daughter. He explained that six weeks ago, his ex-partner (mother of his daughter) had refused to return his daughter to his home as required by their custody agreement. He provided SCPD officers copies of the out-of-county court-issued protective custody order, an arrest warrant for the mother, and explained that he had filed a missing person's case concerning his daughter. A SCPD officer documented and confirmed the protective order, felony warrant and missing person's case. The on-scene supervisor informed the father that they would not take any enforcement action that day in light of the need for more resources and a strategy to take the mother into custody that would not place the daughter into danger.

Two days later, an SCPD officer observed a vehicle registered to the mother and attempted a traffic stop but the driver refused to yield. The officer initiated a pursuit that was terminated within 2 minutes due to concern that the daughter was in the vehicle. The vehicle's description was provided to neighboring agencies but the vehicle was not located. The officer documented these actions and also indicated that he had had previous calls for service involving the mother at her residence.

The Department received a complaint from a family member alleging that the officers had used excessive force on the juvenile and that the detention, handcuffing, use of leg restraints, and custody of the juvenile were illegal. The mother also filed a civil claim against the city concerning the incident.

Supervisor Response

A supervisor responded to the scene, spoke with on-scene officers, the daughter, the father and oversaw that witnesses were interviewed. The supervisor did not complete any report or evaluation of the incident.

Department's Investigative Report and Conclusions

The PSU sergeant reviewed and summarized BWC footage of the involved and witness officers, interviewed involved and witness officers, the father and the complainant, and documents. The PSU sergeant wrote an investigative report and concluded that the involved officer's use of force, use of a restraint device and detention of the daughter were consistent with policy. Specifically,

the PSU sergeant found that the officer's control hold and handcuffing were reasonable in light of the daughter kicking and attempting to bite Officer #3. The use of leg shackles was within policy because the daughter had kicked Officer #3 at least once and tried to kick at other officers. Taking the daughter into custody was lawful due to her assaultive actions toward the officers.

Command staff review agreed with the conclusions though noted that the investigation had not been completed within the one-year statute of limitations. No other recommendations were provided.

IPA's Assessment

The Department's PSU investigation was thorough and its fact-finding was able to address concerns raised by the complainant—such as the erroneous belief that the daughter had been hog-tied (an improper technique of connecting handcuffs to leg shackles.)

However, we observe that in this case the Department did not take a holistic approach to its review process and evaluate the entire course of the officers' conduct. For example, the Department's evaluation failed to consider whether de-escalation techniques could and should have been used. At the time of the incident, the Department had revised its Use of Force policy to align with the state law requirement that officers use de-escalation techniques, crisis intervention tactics and other alternatives to force when feasible."²⁵

We recognize that the scene was chaotic and potentially volatile because of the child-custody issues at stake. Nonetheless, when Officer #1 instructed the parties to separate, the father moved away from both the mother and daughter and remained calm and at a distance. With the father's disengagement, the officers' focus turned to the mother's arrest.

A more robust incident review would have considered how officers communicated with both the mother and the daughter and what efforts were

²⁵ State law defines feasible as being capable of being done...without increasing risk to the officer or another person. (California Government Code §7286(a) (3)).

made to obtain the mother's cooperation and address the daughter's distress. In this incident, the officers went hands on without communicating with either the mother or the daughter. The daughter's extreme distress by being separated from her mother and observing her mother's arrest was predictable. In fact, when the supervisor met with the father days several days before he specifically did not want to take enforcement action immediately in order to devise a plan that considered the daughter's wellbeing.

As the daughter screamed and cried for her mother, officers gave her numerous orders to comply, but none addressed her distress. When she was first handcuffed after having been pulled away from her mother and fallen to the ground, officers focused on quickly getting her on her feet and to the patrol car. The Department did not evaluate whether the number of officers standing over her, the multiple commands, and goal of getting her into the patrol car rapidly were effective strategies and whether other de-escalation or communication efforts tailored to a teenager could have resulted in less force and a less traumatizing result for the daughter. We recommend that officers document any de-escalation efforts in their incident reports and that the Department's review of force incidents include whether de-escalation efforts were warranted and their effectiveness.

RECOMMENDATION FIFTEEN: The Department should amend its Use of Force policy to require officers to document their de-escalation efforts in their incident reports.*

RECOMMENDATION SIXTEEN: The Department's review of force incidents should include whether de-escalation efforts were warranted and their effectiveness.*

This incident provides an opportunity to enhance policy and training to address the complexity of officers' role when arresting a parent in front of a child. The International Association of Chiefs of Police recommends that Departments have a written policy to safeguard the children of arrested parents. The policy attempts to limit the trauma caused by a parent's arrest by attempting to arrest the parent outside of the child's presence, permitting the child to say good-bye if the parent is cooperative, and ensuring the child's safety in the short- and

long-term.²⁶ We suggest that the Department consider adopting a children of arrested parents policy.²⁷

RECOMMENDATION SEVENTEEN: The Department should consider adopting a children of arrested parents policy.

We also note that the supervisor in this case did not write any report or conduct any evaluation of the incident. As noted previously, a supervisor's evaluation should evaluate whether the force used complied with policy and also address tactics, decision-making, planning, coordination, force options, de-escalation efforts and equipment. Here, the supervisor did not write any type of evaluation of the force used in this incident.

Additionally, this supervisor had previously met with the father and discussed formulating a plan for the mother's arrest that considered the daughter's well-being. The Department never explored whether it had taken additional planning steps and what had prevented the Department from executing their arrest plan before the circumstances escalated into a call for service.

RECOMMENDATION EIGHTEEN: The Department's review of force incidents should include any planning efforts by the Department before the incident.

²⁶ <https://www.theiacp.org/resources/safeguarding-children-of-arrested-parents-toolkit>; https://post.ca.gov/portals/0/post_docs/publications/Child_Safety.pdf

²⁷ Over sixteen years ago, the California Legislature urged law enforcement and child welfare agencies to develop protocols in collaboration with other local entities to address their response to the arrest of a parent or guardian to ensure the child's safety and well-being. (Assembly Bill 1942 (Nava)). AB 1942 also added directed California Police Officers Standard Training to develop guidelines and training for use by state and local law enforcement officers to address child safety when a caretaker parent or guardian is arrested. https://post.ca.gov/portals/0/post_docs/publications/Child_Safety.pdf

We also noted that the mother filed a claim against the city. Additionally, she provided materials for the Department's consideration during its investigation. The PSU sergeant considered these materials and concluded that they did not change his recommendations. Both the city claim and the materials she provided the Department indicated that she was complaining about the officer's conduct. The Department notified the complainant (another family member) of their investigation's conclusion but did not provide written notification to the mother. The Department should have treated her as a complainant and provided her notification of the Department's findings at the conclusion of its case.

RECOMMENDATION NINETEEN: The Department should treat complainants of the same incident as co-complainants and provide notification of the Department's findings at the conclusion of its case.*

Case No. 17 (Use of Force) Public Complaint

Incident Summary

On the date of the incident, officers were dispatched to a parking lot for a report of a restraining order violation. Officer #1 contacted the reportee who provided a copy of a civil harassment restraining order, pointed to the restrained party and described how the restrained party was verbally harassing her. Dispatch confirmed the validity of the order.

In the meantime, Officers #2 and #3 contacted the subject (the restrained party) and asked whether a court order prohibited contact between her and the reportee. She stated that another SCPD officer had told her no order existed, the police had lied to her, and that she was going to call the FBI right away. She started to walk away and turned with her phone. Officers #2 and #3 removed her phone, placed her hands behind her back and handcuffed her, telling her she was under arrest. Officers #2 and #3 walked her to a patrol vehicle, searched her, and placed her in the vehicle. The subject was subsequently cited and released.

The subject subsequently complained that the officers had used excessive force, improperly arrested and cited her, searched her wallet and refused

to give her purse back. She was interviewed at the time she complained but no investigation was conducted. When the current PSU sergeant was appointed, he reviewed the officers' BWC footage, interviewed the witness and involved officers, and made attempts to reach the complainant.

The PSU sergeant concluded that the officers' actions had not violated the Department's policies. We agree with the Department's findings which the officers' BWC footage corroborates. To the sergeant's credit, he also noted that the reporting officer's report did not document the complainant's detention in handcuffs, her resistance to being handcuffed, that she was placed in a patrol car and that she was searched incident to arrest. Command staff review also noted that the investigation had not been completed in a timely manner.

We have one additional observation. Here, the officers grabbed her arms without communicating to the subject that she was being detained, and that she would be handcuffed and arrested if she walked away. Although she expressed doubt about the existence of the restraining order, she was neither confrontational nor aggressive. We suggest that the circumstances merited a warning and an opportunity to comply before applying handcuffs.

RECOMMENDATION TWENTY: The Department should revise its Use of Force policy to provide when feasible a warning and time to comply before using force.

Public Complaints

Case No. 22

The complainant alleged that two years prior, a Santa Cruz Police Department officer had wrongfully issued him a citation that required a Department of Motor Vehicle Re-Examination of Driver. He alleged that the police contact and citation were retaliatory and done on behalf of his ex-girlfriend or her friend who had the same last name as the officer who had cited him.

The investigating sergeant interviewed the reportee who had called 911 and observed the complainant's threatening behavior. The responding officer's observations of the complainant caused him to believe he could not safely operate a vehicle. The investigating sergeant also contacted an officer with the

California Highway Patrol who opined that an officer could lawfully issue a Re-Examination citation due to concerns about the individual's mental capacity to drive without observing the individual operating a vehicle. The officer advised the investigating sergeant that he was not related to or knew the ex-girlfriend or her friend.

The investigating sergeant informed the complainant by letter that the Department found that the officer had the lawful authority to issue him the DMV Priority Re-Examination Form and thus exonerated the officer.

We found that the Department's investigative conclusions were supported by the evidence. We also noted that the investigating sergeant discovered that the officer had not written a report regarding the handcuffing of the complainant as required by Department policy and the officer was counseled about this violation.

We suggest one area of improvement concerning the Department's notification to the complainant of its investigation's results. Although the Department investigated the complainant's allegation that the police contact and citation were retaliatory, its letter to the complainant did not address this allegation. We recommend that the Department's letter to complainants provide findings as to each allegation raised in the complaint.

RECOMMENDATION TWENTY-ONE: The Department's letter to complainants should provide findings as to each allegation raised in the complaint.*

Case No. 23

The complainant alleged that SCPD officers had not properly investigated a reported theft of money from the complainant's home and that the investigating officer had not responded to her emails and calls. A supervisor reviewed the complaint and identified additional investigative steps which the responding officers then completed. He also counseled the officer about responding to emails and voicemails from victims in a timely manner. The Department notified the complainant by letter that additional investigative measures had been taken in her case and that a supervisor addressed her concerns with the involved employees.

CONCLUSION

During 2022, we reviewed thirty-three of the Department's use of force and public complaint investigations. Many of the files we evaluated reflected thorough investigations and sound conclusions. We observed the Department take significant steps to address its backlog of cases and implement recommendations we had previously made to enhance its system for documenting, monitoring and completing its investigations in a timely manner. Our review of individual cases also indicated that the Department would benefit from re-evaluating its Taser policy and strengthening its use of force review procedures. The Department was receptive to our suggestions and promptly drafted policy that addresses sixteen of the twenty-one recommendations raised in this report. We look forward to continuing our work with the Santa Cruz City Council, the community and its Police Department.

APPENDIX A:

Santa Cruz Police Department Force & Complaint Investigations Reviewed by Independent Police Auditor in 2022

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Case No.	Summary	SCPD Allegations and Finding	IPA Review
1(2019)	Complainant alleged that the officer was rude and threatening during a bicycle stop. The officer failed to activate his body worn camera during the stop.	Supervisor counseled the officer concerning professionalism and the body worn camera policy. SCPD noted a long delay in completing the investigation.	Concur
2(2020)	Complainant alleged that officers accused her of being intoxicated and discouraged her from making a private person's arrest when responding to report that she had been battered by security staff.	Conduct Unbecoming Sustained (senior officer) Exonerated (trainee)	Concur
3 (2020)	Complainant alleged that an officer illegally arrested him, used excessive force, failed to investigate and wrote a false report.	Use of Force Exonerated Improper Arrest, False Report and Lack of Investigation Unfounded SCPD noted investigation not completed within statutory time.	Concur
4 (2020)	Complainant alleged that officers used excessive force by pushing her into a fence while detaining her and violated her Miranda rights.	Use of Force Exonerated Miranda violation Unfounded Involved officer no longer employed by SCPD.	Concur
5(2020)	Complainant alleged that after he was arrested, an officer took money from him and threw his glasses and dentures out of the police vehicle.	Conduct Unbecoming Unfounded SCPD noted investigation not completed within statutory time.	Concur
6 (2020)	Complainant alleged that officers were biased during a traffic stop.	Conduct Unbecoming Biased Policing Not Sustained Officer counseled for muting and then failing to unmute body worn camera.	Concur

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Case No.	Summary	SCPD Allegations and Finding	IPA Review
		One officer no longer works for SCPD.	
7(2020)	Complainant alleged officer used excessive force during arrest and stole property from his jacket.	Use of Force Exonerated Conduct Unbecoming Unfounded SCPD noted investigation not completed within statutory time.	Concur
8 (2020)	Department-initiated review of a use of force incident. When the individual resisted officers' attempt to handcuff him after ignoring the command to stay in his vehicle during a traffic stop, an officer punched and kneed the complainant several times in the face. At the hospital, when subject became combative and refused to provide his hands for handcuffing, Officer #2 punched the subject in the face and numerous times in the torso. Ultimately, officers used the WRAP to transport the subject to the jail.	Use of Force Standards of Conduct Exonerated Department recommended additional use of force training and modified its policy concerning strikes and punches. ²⁸	Concur
9 (2020)	Complainant alleged that officer failed to wear a face mask during a vehicle tow contact.	Not Sustained	Concur

²⁸SCPD Use of Force Policy 300.3.7 PERSONAL IMPACT WEAPONS; STRIKES AND PUNCHES:

Strikes and punches are an approved use of force only when there is an objectively reasonable basis for use of force given the facts and totality of the circumstances. Any person using force must articulate the circumstances as objectively reasonable and apparently necessary under the totality of the circumstances, and that the use of force is proportionate to the severity of the crime, the threat posed by the suspect, and the suspect's level of resistance.

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Case No.	Summary	SCPD Allegations and Finding	IPA Review
10 (2021)	Department-initiated review of force incident involving officers' multiple Taser deployments during a well-being check on individual under the influence.	Use of Force Exonerated Tactical debriefing and de-escalation training of officer; tactical debriefing of supervisor.	See IPA's discussion and recommendations in narrative of this Report.
11 (2021)	Complainant alleged that officers unlawfully entered his home and used force by tackling him during an arrest that originated with a noise complaint.	Use of Force Not Sustained SCPD noted investigation not completed within statutory time.	Concur
12 (2021)	Complainant alleged that officers used force by grabbing her upper arm and improperly handcuffing her while taking her into custody for violation of a restraining order.	Use of force Improper handcuffing Not Sustained	Concur
13 (2021)	Complainant alleged that the officer became improperly involved in a property dispute.	Conduct Unbecoming Sustained	Concur
14 (2021)	Complainant alleged that officers stole money from his wallet and acted out of control during the complainant's arrest.	Conduct Unbecoming Not Sustained	Concur
15 (2021)	Complainant alleged that officers used excessive force and illegally arrested him when he was experiencing a seizure. He also alleged one officer was discourteous when his wife approached officers about his medical condition.	Use of Force Illegal Arrest Exonerated Unprofessional conduct One officer lacked professionalism though not warranting discipline.	Concur
16 (2021)	Complainant alleged that officers used excessive force, improper leg restraints, and improperly took a juvenile into custody during the arrest of the juvenile's parent.	Exonerated all allegations.	See IPA's discussion and recommendations in narrative of this Report.
17 (2021)	Complainant alleged officers used excessive force, improperly arrested, searched and cited her, and did not	Exonerated all allegations.	Concur; see IPA's discussion and recommendations in narrative of this Report.

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Case No.	Summary	SCPD Allegations and Finding	IPA Review
	return property during a restraining order violation incident.		
18 (2021)	Complainant alleged that a forehead injury to the arrestee was the result of improper police contact and use of force when officers contacted him for trespassing. Additional allegations included pointing of a taser without warning, discourtesy, false statements of officers and supervisor.	Improper contact Exonerated Discourtesy Sustained No warning Exonerated Use of Force Not Sustained False statements Unfounded	Concur
19 (2021)	Complainant alleged that he was improperly arrested for false imprisonment.	Improper arrest Exonerated	Concur
20 (2021)	Department-initiated review of force incident involving the officer's tasing of an individual while taking him into custody. The officer responded to a call involving an individual in mental health crisis, yelling and who had reportedly stolen from a store.	Use of Force: Exonerated; also recommended improved tactics and de- escalation training for officer	Question SCPD's finding; concur with SCPD's recommendations; IPA Taser Recommendations 1, 2,5,6 and 8 apply to this case.
21 (2021)	Complainant alleged that the officer failed to apprehend suspects who vandalized his truck.	Failure to enforce Exonerated; Officer counseled on communication skills.	Concur
22 (2021)	Complainant alleged that an officer had wrongfully issued him a citation requiring driver re-examination by the Department of Motor Vehicles and that the citation was retaliatory.	Wrongful citation Exonerated	Concur See IPA discussion and recommendation in narrative of this Report.
23 (2022)	Complainant alleged that officers had not properly investigated a theft from her home and not responded to emails and calls.	SCPD took additional investigative steps and also counseled the officers.	Concur See IPA discussion in narrative of this Report.
24 (2022)	Complainant alleged that the officer inappropriately touched her chest when he held her wrist to guide her back from her close proximity to him.	Use of Force Conduct Unbecoming Exonerated	Concur

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Case No.	Summary	SCPD Allegations and Finding	IPA Review
25 (2022)	Complainant alleged that while arrested he was handcuffed and not permitted to use the restroom for 2 hours.	Cruel & Unusual punishment: Unfounded	Concur
26 (2022)	Complainant alleged that the officer had not accepted a private person's arrest and should have searched the other party for weapons.	Concerns handled by officer's supervisor	Concur
27 (2022)	Complainant alleged that officer had towed his vehicle unlawfully.	SCPD notified complainant that photos of vehicle with chalk marks and abatement notice demonstrated towing was within policy.	Concur
28 (2022)	Complainant alleged that the officer was rude when he contacted the complainant at his home while conducting a welfare check concerning a neighbor.	Concerns handled by officer's supervisor.	Concur
29 (2022)	Complainant alleged that the officer had failed to investigate his report of a theft of money from his van.	SCPD found officer had violated policy and counseled officer.	Concur
30 (2022)	Complainant alleged that the officer was rude and issued a retaliatory citation to the complainant when the complainant requested that another individual be issued a parking citation. Complainant agreed that supervisor's counseling of officer was sufficient.	Concerns handled by officer's supervisor.	Concur
31 (2022)	Department-initiated review of force incident involving officer's use of force and derogatory language on suicidal individual.	Conduct Unbecoming Sustained Use of Force (handcuffed arms raised behind back) Sustained Use of Force (open hand strike) Exonerated	Concur; see IPA discussion and recommendations in narrative of this report.
32 (2022)	Complainant alleged officers improperly contacted him about a report that he was photographing children at the park	SCPD determined no policy violation.	Concur

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Case No.	Summary	SCPD Allegations and Finding	IPA Review
	and that supervisor denied his request to file a criminal complaint against person who made false report about him.		
33 (2022)	Complainant alleged that officer should have initiated a mental health detention on his son instead of arresting him on criminal charges.	SCPD determined no policy violation.	Concur

APPENDIX B:

LIST OF INDEPENDENT POLICE AUDITOR RECOMMENDATIONS

RECOMMENDATION ONE: The Department should revise its Taser policy to permit Taser use only when there is an immediate threat to the safety of the officers or others, consisting of observable assaultive behavior or the threat thereof or flight from felony arrest.

RECOMMENDATION TWO: SCPD should ensure that when its supervisors evaluate uses of force that they consider each of the relevant factors articulated in its policy.

RECOMMENDATION THREE: The Department should revise its Taser policy to require officers to document the justification for multiple applications of a Taser and Taser exposure longer than 15 seconds.

RECOMMENDATION FOUR: The Department should revise its Taser policy to require that the Department's review of a Taser incident includes whether multiple applications of the Taser or Taser exposure for longer than 15 seconds was justified.

RECOMMENDATION FIVE: The Department should revise its Taser policy to require that post-Taser deployment, the reviewing sergeant download the Taser use data concerning the event, including but not limited to the number of discharges, amount of time for each discharge, time between discharges, and probe or stun mode application.

RECOMMENDATION SIX: The Department should adopt policy that requires use of force review to assess the effectiveness of communication by involved personnel.

RECOMMENDATION SEVEN: The Department should adopt a policy that requires all relevant allegations of potential misconduct against involved officers and supervisors be brought. Any recommendation suggesting that a member should be named as a subject but then not followed should be documented and explained in the investigative file.

RECOMMENDATION EIGHT: The Department should revise its Taser policy to require the Taser instructor team to analyze all reports involving Taser deployment and to provide recommendations concerning tactics, decision-making, policy, training and supervision related to their subject matter expertise and incident review.

RECOMMENDATION NINE: The Department should revise its Taser policy to address the increased risks that the Taser poses (including from single and

multiple activations) to susceptible individuals that the Taser manufacturer has identified.

RECOMMENDATION TEN: The Department should ensure that careful attention be placed on the review of any Taser use in drive stun mode to ensure that it meets the limited exceptions set out in policy.

RECOMMENDATION ELEVEN: The Department should revise its Use of Force policy to define supervisors' duties to document and review a reportable force incident.

RECOMMENDATION TWELVE: The Department should revise its Use of Force policy to identify each reviewer in the chain of command and their incident review duties.

RECOMMENDATION THIRTEEN: The Department should identify the one-year statute of limitations date for each administrative investigation and actively monitor and ensure that the Department's internal review and notification of potential discipline to involves officers are provided within the statutory period.

RECOMMENDATION FOURTEEN: The subject officer's supervisor should be required to participate in a comprehensive debriefing about this incident, including his evaluation of his subordinate's performance throughout the incident.

RECOMMENDATION FIFTEEN: The Department should amend its Use of Force policy to require officers to document their de-escalation efforts in their incident reports.

RECOMMENDATION SIXTEEN: The Department's review of force incidents should include whether de-escalation efforts were warranted and their effectiveness.

RECOMMENDATION SEVENTEEN: The Department should consider adopting a children of arrested parents policy.

RECOMMENDATION EIGHTEEN: The Department's review of force incidents should include any planning efforts by the Department before the incident.

RECOMMENDATION NINETEEN: The Department should treat complainants of the same incident as co-complainants and provide notification of the Department's findings at the conclusion of its case.

RECOMMENDATION TWENTY: The Department should revise its Use of Force policy to provide when feasible a warning and time to comply before using force.

RECOMMENDATION TWENTY-ONE: The Department's letter to complainants should provide findings as to each allegation raised in the complaint.