



# **Office of Inspector General County of Los Angeles**

## **Review of August 7, 2020, Santa Clarita Incident**

September 2021

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## Introduction

On August 7, 2020, the Santa Clarita Sheriff's station received a call for service regarding a possible assault occurring at a commercial parking lot in Santa Clarita. Two Los Angeles County Sheriff's Department (Sheriff's Department) deputies responded to the location. They immediately exited their cars with guns drawn and aimed at three young men at a bus stop. A crowd of approximately six to eight people had assembled at the scene before the deputies' arrival. One of the civilians in the crowd began to record the encounter on her cellphone. The video recording shows two Sheriff's Department deputies with their handguns out and another joining them shortly after with an AR-15 rifle aimed at the three young men. The video of the incident was uploaded to social media accounts garnering publicity on social media as well as in conventional news sources.<sup>1</sup> Members of the community and community leaders, including the Santa Clarita mayor, Cameron Smyth, and Los Angeles County Board of Supervisor, Kathryn Barger, expressed concerns over the deputies' actions of pointing guns, especially an AR-15 rifle, at three teenagers who on video appeared unarmed and compliant with the deputies' orders.<sup>2</sup> In a public statement, Supervisor Barger asked Sheriff Alex Villanueva and the Office of Inspector General to investigate the deputies' actions.<sup>3</sup>

On August 10, 2020, Sheriff Villanueva released a statement via the Sheriff's Department social media stating the Sheriff's Department was investigating the matter.<sup>4</sup> On August 19, 2020, during a Facebook Live question and answer session, the Sheriff stated the incident had been investigated and it did not unfold in the manner eyewitnesses on the video described<sup>5</sup>.

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<sup>1</sup> Wiggleworth, Alex, "Black teens who were victims of a knife attack had guns drawn on them by deputies, lawyer says," Los Angeles Times. August 10, 2020. <https://www.latimes.com/california/story/2020-08-10/sheriffs-deputies-held-black-teens-at-gunpoint-after-they-were-called-to-help-attorney-says>. (Accessed October 21, 2020).

<sup>2</sup> CBS Staff, "Caught on video: Parents Outraged as Deputies Point Guns at 3 Black Teens Who Had Been Attacked in Santa Clarita," CBS. August 10, 2020. <https://losangeles.cbslocal.com/2020/08/10/caught-on-video-outrage-3-black-teens-attacked-with-knife-detained-at-gunpoint-santa-clarita/> (Accessed October 21, 2020).

Press Release, "Barger Releases Statement Regarding Incident Involving SCV Deputies," Santa Clarita Valley News. August 11, 2020. <https://scvnews.com/barger-releases-statement-regarding-incident-involving-scv-deputies/> (Accessed October 21, 2020).

<sup>3</sup> Ibid.

<sup>4</sup> CBS Staff, "Caught on video: Parents Outraged as Deputies Point Guns at 3 Black Teens Who Had Been Attacked in Santa Clarita," CBS. August 10, 2020. <https://losangeles.cbslocal.com/2020/08/10/caught-on-video-outrage-3-black-teens-attacked-with-knife-detained-at-gunpoint-santa-clarita/> (Accessed October 21, 2020).

Shortly after the incident came to light, the Office of Inspector General made a request to the Sheriff's Department for the following documents:

- Any and all audio tapes/records of calls received via 911 or other means (business lines -cell phones etc.) regarding this incident or related incidents
- Call logs for all units involved in the response
- Watch Commander log entries regarding this incident
- Copies of any and all Computer Aided Dispatch records
- Copies of any and all MDC transmissions regarding this incident
- Any and all audio and/or video of the incident, including body-worn cameras/dashcam video etc.
- Copies of any and all reports generated, including internal memorandums and/or emails regarding this incident
- Copy of public complaint(s) regarding this event

On or about September 16, 2020, the Sheriff's Department provided the Office of Inspector General with the items requested. In preparing this report, the Office of Inspector General reviewed and analyzed pertinent Sheriff's Department policies, all the information the Sheriff's Department provided including information gathered by the Sheriff's Department complaint investigation, and all audio and video recordings.

The results of the Office of Inspector General's review are as follows:

- (1) Per Sheriff's Department policies, the act of unholstering and pointing a firearm is, by itself, not a reportable event; thus, absent a citizen complaint, deputies' actions, similar to the ones which occurred in Santa Clarita, may never be brought to a supervisor's attention due to a lack of documentation;
- (2) Sheriff's Department policies and training tactics allow deputies broad discretion as to when they can deploy rifles;
- (3) The Watch Commander Service Comment Report (WCSCR), authored by the Watch Commander, is a report of the investigation to determine the merits of a citizen's complaint. The report generally summarizes the interviews conducted by the Watch Commander, makes findings as to any misconduct, and memorializes other pertinent evidence necessary to determine the merits of a complaint. The WCSCR for this incident has several issues, including the absence of tape-recorded statements of the deputies and evidence of possible

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<sup>5</sup> "Sheriff Villanueva -Goes Live to Discuss Current Issues and Answer Questions," Los Angeles County Sheriff Facebook, August 19, 2020; and Collins, Tammi [@tammilaray]. (n.d.). Posts [Instagram profile]. Retrieved February 18, 2021, from <https://www.instagram.com/p/CDnvZRDBIRY/>

biases in the investigation that may have resulted in portraying the deputies' actions in a more favorable light;

(4) The Sheriff's Department identified one of the detained young males as being part of a gang; yet, by the Sheriff's Department's records, the male has had no criminal contacts with law enforcement. The Sheriff's Department provided no documentation or evidence as to why this information was relevant in the WCSCR nor did it provide documentation to show how the Sheriff's Department was tracking a young man with no criminal background as possibly belonging to a gang or clique; and

(5) Neither of the two supervising Sheriff's Department sergeants, who responded to this incident directed that an assault investigation be done, took charge of supervising the incident, wrote reports as to what they did or what they witnessed, or made efforts to speak to the individuals present at the scene who voiced concerns about the deputies' actions.

## Summary of the Incident Based on the Sheriff's Department's Investigation

The information in this summary is based on a review of the investigation provided to the Office of Inspector General by the Sheriff's Department. The Office of Inspector General did not independently conduct interviews.

According to the Sheriff's Department investigation, on August 7, 2020, at approximately 5:00 p.m., Santa Clarita Sheriff's station received a call for service. The male caller stated he was witnessing an ongoing assault in the Food 4 Less parking lot located at 19200 Soledad Canyon Road in Santa Clarita. The caller stated he saw two Black kids hitting a male Hispanic.<sup>6</sup> The caller stated the kids were about twenty-one to twenty-two years of age.<sup>7</sup> After witnessing them hit the male Hispanic, who the caller identified as the "victim," the caller briefly lost sight of the parties. A few seconds later, he spotted the two young African American males, whom the caller identified as "subjects" at the bus stop.<sup>8</sup> The male Hispanic approached the young males.<sup>9</sup> The group engaged in what appears to be a shouting match.<sup>10</sup> The caller described a crowd of onlookers who had gathered around the

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<sup>6</sup> Exhibit A, p. 1.

<sup>7</sup> Ibid., p. 2.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

parties.<sup>11</sup> In his opinion, the crowd appeared to be trying to calm the situation down.<sup>12</sup> The caller told dispatch he saw the male Hispanic walk away towards the Bank of America on Soledad.<sup>13</sup> He stated, “[t]he two African American males they are on skateboard northbound on Soledad. So the same way [as the male Hispanic] towards the Bank of America, they are trying to avoid the deputies, they are trying to avoid deputies.”<sup>14</sup> The young males, however, soon returned to the bus stop.<sup>15</sup> The caller stated there were several witnesses at the scene. The call ends shortly after that.

A second caller, a female, called Santa Clarita Sheriff’s station about three minutes after the male caller reported what she observed. On the audio recording, a Sheriff’s Department representative tells the female caller another caller had already called in to report the incident.<sup>16</sup> The female caller stated the parties were fighting, but now one of the males was walking back.<sup>17</sup> According to the caller, the parties were “literally like in traffic fighting, and I don’t know what’s going on out there, but yeah, they are not from in here. It’s like two kids in skateboards and like some big giant Mexican guy. The kids just look like they were like skateboarding, but I don’t know what is going on. The kids are walking now. Looks like maybe they are breaking up. I see the kids walking down the street now, but I don’t know. It’s two African-American kids and a Hispanic gentleman, but the gentleman took his shirt off, he was chasing them, he was trying to hit them and I don’t know what is going on.”<sup>18</sup> She repeated several times she did not know everything that was happening and couldn’t see what was happening at that moment.<sup>19</sup> The Sheriff’s Department representative stated the other caller (the male caller) “has a better view so we are just going with the other guy right now.”<sup>20</sup> The call ends shortly after. Dispatch did not update the call to reflect the female caller’s observations. A review of the mobile digital computer (MDT) records shows the call went out to deputies as two male Black adults, who were approximately twenty-one years old, hit a male Hispanic with a skateboard. No other weapon was mentioned.

Approximately six minutes after the initial call for service, the first deputy arrived on the scene. Seconds later, a second deputy arrived on scene. Both deputies

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<sup>11</sup> Ibid., p. 3.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid., p. 4.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Exhibit B, p. 1.

<sup>17</sup> Ibid., p. 2.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.



exited their patrol cars with guns drawn and pointed the guns at the three males at the bus stop. At this point, one member of the crowd of onlookers began to tape the detention of the three males by the deputies.<sup>21</sup> Approximately a minute and a half after the first deputies arrived on scene, a third deputy arrived. He exited his patrol car with an AR-15 rifle and pointed it at the three young males. A citizen who was driving by took photographs of the incident shortly after the three deputies arrived.



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<sup>21</sup> Wiggleworth, Alex, "Black teens who were victims of a knife attack had guns drawn on them by deputies, lawyer says," Los Angeles Times. August 10, 2020. <https://www.latimes.com/california/story/2020-08-10/sheriffs-deputies-held-black-teens-at-gunpoint-after-they-were-called-to-help-attorney-says>. (Accessed October 21, 2020).



About a minute after the third deputy arrived on scene, the deputies handcuffed the three males and placed them in their patrol cars. A fourth deputy, assigned the role of handling deputy, was tasked with gathering information. At this time, the deputies discovered two of the detained Black males were sixteen years old, and one white male was eighteen years old.<sup>22</sup> The handling deputy asked the eighteen-year-old about the incident.<sup>23</sup> The eighteen-year-old stated a male Hispanic was “messing with him and his friends” and tried to hit them. However, the male Hispanic did not make any contact, and it ended with a verbal altercation between the parties. While detained in the back seat of the patrol car, one of the sixteen-year-old males complained to a deputy about being detained and commented the Sheriff’s Department had detained the wrong individuals. The deputies provided no additional information as to whether they inquired further of the teenagers or if the teenagers provided any details as to what happened.

The handling deputy spoke to the male caller, who stated he witnessed the two Black teenagers hit a male Hispanic with a skateboard. According to the handling

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<sup>22</sup> The race of the young men is based on what the deputies wrote in their reports.

<sup>23</sup> The eighteen-year-old was handcuffed and detained in the backseat of a patrol car. The handling deputy’s report, authored on August 13, 2020, makes no mention if he advised the male of his *Miranda* rights prior to engaging in a conversation with him.



deputy's report, he tried to speak to the female caller and other witnesses, but no one else would cooperate or speak with him. According to the handling deputy, given the conflicting evidence provided by the eighteen-year-old male and the male caller, the deputies released the detained teenagers because they were unable to verify that a crime had occurred. In a later interview with the Watch Commander, the sergeant on scene stated the young males were non-desirous of prosecution; but none of the Sheriff's Department's reports reflect to whom the males said this to as the reports do not document any further statements made by the teens other than the ones mentioned in the above paragraphs.

## Complaint and Investigative Findings

On August 8, 2020, a video of the incident was posted on social media by a private citizen. On August 10, 2020, a citizen from the state of Oregon called the Santa Clarita station to file a formal complaint. In a tape-recorded conversation with a lieutenant at the station, the complainant stated he saw the video of the incident and was concerned with the deputies pointing "rifles and pistols at people who didn't deserve to have guns pointed at them." With the filing of this formal complaint, the Sheriff's Department began its investigation into this incident.<sup>24</sup>

At the conclusion of the investigation, the Watch Commander determined one of the deputies used discourteous language towards the crowd. The deputy was issued a Performance Log Entry (PLE) for his actions.<sup>25</sup> In the same log entry, the Watch Commander wrote the deputy could have chosen to use less-lethal tactics rather than deploying the rifle. However, the Watch Commander did not issue a PLE as to that conduct since Sheriff's Department policy and the Sheriff's Department Training Bureau permit, train, and allow the deputy to deploy the rifle without any apparent limitations. The Watch Commander issued a PLE to the handling deputy for his failure to author a "suspicious circumstance report" after the incident. According to the Sheriff's Department, PLEs involving conduct that falls below

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<sup>24</sup> Other factors such as community leaders, including the mayor of Santa Clarita and Supervisor Barger expressing concern could have started the investigation, but that is not reflected in any of the paperwork the Office of Inspector General reviewed. The formal investigation appears to have been started solely based upon this out-of-state complainant's expressed concern with the deputies' actions of pointing "rifles and pistols at people who didn't deserve to have guns pointed at them."

<sup>25</sup> "Performance Log Entry (PLE) is the hard copy documentation of a supervisory notation about a deputy's performance, including commendations, weaknesses, career guidance, and training." (see United States Department of Justice, "Antelope Valley Monitoring Team Monitor's Audit of Community Complaints," p. 5, January 10, 2018.)

[http://www.la-sheriff.org/s2/static\\_content/avc/documents/Monitor%20Public%20Complaint%20Audit%20\(01-2018\).pdf](http://www.la-sheriff.org/s2/static_content/avc/documents/Monitor%20Public%20Complaint%20Audit%20(01-2018).pdf). (Accessed October 21, 2020).

departmental standards are not considered discipline but rather are supervisory notes about an employee's performance during a given rating period. The purpose of the PLE is to document employee performance including strengths and weaknesses. The documentation must be given to and discussed with the employee. The notations are included in the employee's performance evaluation and then are destroyed. There is only a record of the notations that were ultimately included in the performance evaluation.

On August 24, 2020, the Sheriff's Department sent a letter to the complainant stating his "complaint has been thoroughly investigated" and the Sheriff's Department inquiry revealed the Sheriff's Department's employee's conduct "should have been different." The Sheriff's Department's letter also indicated the Sheriff's Department "documented the matter with the personnel involved."

On September 1, 2020, Chief Dennis Kneer of the North Patrol Division, which oversees Santa Clarita station, sent a memorandum to his supervisor, Assistant Sheriff Steve Gross, requesting the Sheriff's Department revisit its policy to delineate the circumstances under it would be proper for a deputy to deploy a rifle. As of writing this report, the Sheriff's Department has not informed the Office of Inspector General of any revision to its existing Manual of Policies and Procedure (MPP) section 5-09/170.00 on patrol rifle deployment.

## Analysis

### The Unholstering of a Firearm Should Constitute a Reportable Event

Many aspects of the incident video resulted in public expressions of concern, none more so than when a deputy exited his patrol vehicle armed with an AR-15 rifle and pointed it at the three teenagers who raised their arms and followed the deputies' orders. But for the circulation of the video of the incident on social media and in the news, the act of these deputies pointing guns at juveniles would likely not have come to the Sheriff's attention. The incident raises concerns about Sheriff's Department policies for reporting the display of weapons.

According to the Manual of Policy and Procedures (MPP), the deputies' actions in this incident do not constitute a reportable event. No one was physically injured nor were any special weapons deployed. Per Sheriff's Department policy, this would not even rise to a Non-Categorical Incident or even a Category 1 use-of-force, which is the Sheriff's Department's lowest designation of force used by deputies.<sup>26</sup> Because

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<sup>26</sup> See MPP Section 3-10/038.00, "Reportable Use of Force and Force Categories." In 2017, a fourth category of force was carved out of Category 1 uses-of-force to streamline the documentation of some of the lowest

it is not a use-of-force, the Sheriff's Department does not require its deputies to formally document unholstering and pointing a firearm as a use of force, although it does require recording the use through a log entry of the incident on a Mobile Digital Terminal.<sup>27</sup> It is concerning that such behavior would never come to the attention of a supervisor without the public witnessing it, given that the lack of reporting requirements means that there is no supervisory or command staff assessment of the deputies' conduct. It should not take the public's response to a video of a deputy pointing a rifle at a juvenile to prompt a response from the Sheriff's Department management to reconsider its rifle policy. The Sheriff's Department still has not addressed the issue as to whether the use of the rifle in these circumstances, pointing guns at three young men who were armed only with skateboards, is consistent with Sheriff's Department tactics and training

The dictionary defines force as, "a coercion or compulsion, especially with the use or threat of violence." When a police officer points a gun at a suspect, the officer threatens the subject with violence to compel the subject to follow the officer's orders. Case law across various jurisdictions has held the act of a police officer pointing a gun at someone can constitute excessive force and is a seizure under the Fourth Amendment.<sup>28</sup> If pointing a gun can be **excessive force** then it clearly constitutes force; given that it is force, the Sheriff's Department should include it in one of its categories of force and require it be documented every time.

Recent consent decrees in other jurisdictions have required law enforcement agencies to start documenting the unholstering or pointing of firearms. Under a consent decree that went into effect on June 12, 2015, the Cleveland Police

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levels of reportable uses-of-force. This force category is referred to as a Non-Categorized Incident (NCI). A NCI is any of the following uses-of-force when there is no injury or complaint of pain and there are no allegations of excessive force or other misconduct associated with the following uses-of-force: resisted hobble application; resisted searching and handcuffing techniques; resisted firm grip; control holds; "come-alongs;" or other control techniques. This category of force has previously been used in custody settings and has been recently implemented in certain patrol stations, including Lancaster and Palmdale. See LASD North Patrol Division Order 17-01, and Custody Operations Directive 17-006, and MPP Section 3-10/038.00, "Reportable Use of Force and Force Categories."

<sup>27</sup> Section 5-09/170.20 of the MPP, "Reporting the Use of the Patrol Rifle," requires deputies who deploy a rifle to make a Mobile Data Terminal (MDT) log entry. MDTs are installed in patrol cars and used in the field to record and share information. In the MDT record of this incident there is an entry: "/1841\* CLEAR (████████) [Employee ID redacted] 63A/P,,,780,,,,,,X65 AS NEEDED W DET OF SUBJECTS AT GUN POINT W AR-15 DEPLOYED,.ALSO X W CROWD CONTROL." This entry does identify the deputy who deployed the AR-15, but it makes no mention of the identities or if there were other deputies who deployed their firearms. Even though the deployment of AR-15 requires an MDT log entry, the Office of Inspector General is not aware of any policies requiring supervisors to review these logs to determine if the rifle was or was not properly deployed. Nor is the Office of Inspector General aware of any routine audits that the Sheriff's Department conducts to gather this information. To gather data from MDT to discern patterns or conduct an audit is cumbersome as the Office of Inspector General learned from investigating and writing other reports.

<sup>28</sup> *Baird v. Renbarger* (2009) 576 F. 3d 340; *Motley v. Parks* (2005) 432 F. 3d 1072, 1089); *Robinson v. Solano City* (2002) 278 F.3d 1007, 1015

Department is required to report every single time an officer unholsters his/her weapon.<sup>29</sup> Under their consent decree, as of November 1, 2019, officers of the Chicago Police Department are required to report every time they pull out their firearms and point them at others.<sup>30</sup> The Los Angeles Police Department has made efforts to document such displays of firearms by their police officers. In June 2020, shortly after the murder of George Floyd and to comply with the spirit of California Senate Bill 230<sup>31</sup>, the Los Angeles Police Department amended its use of force policies, and it now requires its police officers to report if they “intentional[ly]” point their firearm at a person.<sup>32</sup> On July 14, 2020, the Los Angeles Police Commission reviewed and approved this amendment to the LAPD’s use of force policies and reporting procedures.<sup>33</sup> The possession of a weapon by a suspect has been found to create a reasonable fear for an officer’s safety justifying an officer or deputy-involved shooting. Unholstering or pointing a firearm at someone should be considered a use of force by the plain meaning of the concept or under the law.

The Office of Inspector General recommends that the Sheriff’s Department update its force definitions to categorize the act of unholstering a gun and the act of pointing a firearm. Both of these actions should constitute a reportable event to be documented, reviewed, and tracked. Sheriff’s Department management should analyze all such events to ensure the deputies’ actions adhere to best practices. By implementing use of force policies for unholstering and pointing weapons, the Sheriff’s Department will join other jurisdictions that have already implemented these best practices.

### [The Sheriff’s Department Rifle Deployment Policy Should be Revised](#)

Section 5-09/170.00 of the MPP on patrol rifle policy states:

The deployment of patrol rifles provide personnel with a capability to deliver accurate fire at much greater distances than is possible with a handgun. When properly employed, this capability provides Deputies, and members of the public, with added levels of protection from armed suspects.

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<sup>29</sup> *United States of America v. City of Cleveland* (N.D. Ohio 2015 1:15 CV 1046).

[https://www.justice.gov/sites/default/files/crt/legacy/2015/07/09/cleveland\\_orders\\_6-12-15.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2015/07/09/cleveland_orders_6-12-15.pdf). (Accessed June 11, 2020).

<sup>30</sup> Chicago Police Department, “Firearms Pointing Directions Incidents,” Department Notice D19-01. Issue Date October 1, 2019. <http://directives.chicagopolice.org/directives/data/a7a57b9b-1689a018-67e16-89a0-4d6cf7dbfc2535b3.html?hl=true>. (Accessed June 11, 2020).

<sup>31</sup> [Senate Bill 230](#) requires that California law enforcement agencies maintain a policy with guidelines on the use of force, utilizing de-escalation techniques and other alternatives to force when feasible and to make use of force policies publicly accessible.

<sup>32</sup> Board of Police Commissioners, “Agenda Board of Police Commissioners Special Meeting Tuesday June 30, 2020,” <http://lapd-assets.lapdonline.org/assets/pdf/063020new.pdf>. (Accessed February 18, 2021).

<sup>33</sup> The policy still needs to be approved by the Los Angeles Police Protective League. LAPD Chief of Police, “Use of Force Policy Revision” LAPD, July 14, 2020. (Accessed on February 18, 2021).

Section 5-09/170.20 of the MPP ("Reporting the Use of the Patrol Rifle") requires deputies who deploy a rifle to make a Mobile Data Terminal (MDT) log entry.<sup>34</sup>

The MPP makes no mention as to circumstances in which it would be proper or improper to deploy a rifle. Regarding this incident in Santa Clarita, the lieutenant in charge of the Watch Commander Service Comment Report (WCSCR) investigation, inquired of the Sheriff's Department Training Bureau as to the policies and tactics taught regarding rifle deployment. The Sheriff's Department Training Bureau is in charge of training deputies on tactics and policies. The lieutenant in charge of the Training Bureau stated deputies are encouraged to use the rifle in the field. In the WCSCR, the investigating lieutenant summarized his conversation with the training lieutenant. Per the training lieutenant:

There is no doubt the public and often law enforcement professionals view the patrol rifle as an option only to be used during the most violent situations. However, he explained, current training by our Department demonstrates that the patrol rifle is often the best platform to be used in a situation such as felony traffic stops. The Weapons Training Staff currently encourages the deployment of the patrol rifle.

When considering the distance and backdrop of a moving target. The AR-15/M-4 platform will provide the most stable and accurate tool if a lethal force encounter becomes necessary. It is also equipped with an optic (non-magnified) to enhance the ability of the deputy to easily acquire and maintain a target(s). He then explained that our less lethal weapons such as stun bags have limited applications in these situations.

The deputy who deployed the AR-15 rifle acted in accordance with Sheriff's Department policies and acted consistently with Sheriff's Department training. The deputy detailed his reasons for deploying the rifle in the report he authored on August 14, 2020 (a week after the incident):

Because of the dangerous nature of the call, the fact that there were multiple subjects being detained on a high risk pedestrian stop at a significant distance, and the growing crowd of hostile protesters, I felt deploying my station assigned AR-15 patrol rifle was the most tactically appropriate approach to ensure the highest level of safety for myself, my partners, and the public. Deploying a rifle in a situation like this is paramount because it is more accurate than a handgun due to its long barrel length. This is crucial due to the high pedestrian and vehicle traffic in the shopping center adjacent to the subjects [sic]

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<sup>34</sup> <http://pars.lasd.org/Viewer/Manuals/10008/Content/12361?Source=TextSearch&searchQuery=rifle>

position. If the need for deadly force would arise, I would need to take a precision shot to ensure the safety of bystanders and other responding deputies.

The Sheriff's Department command staff has expressed concerns with this broad discretion to deploy a rifle. The Chief of North Patrol, Dennis Kneer, requested his supervisor, the Assistant Sheriff of all patrol stations, Steven Gross, re-examine Sheriff's Department policy on patrol rifle deployment. As of writing this report, the Office of Inspector General is unaware of any policy changes or changes in how the Sheriff's Department trains deputies on the use and deployment of a rifle. The Office of Inspector General urges the Sheriff's Department to promptly review its rifle deployment policy.

### The Watch Commander Service Comment Report Investigation

The investigation as to whether the deputies acted in accordance with Sheriff's Department policies was conducted by a lieutenant who is one of the Watch Commanders at the Santa Clarita station. At the conclusion of his investigation, he authored a Watch Commander Service Comment Report (WCSCR), documented the evidence he gathered, detailed how he analyzed the facts of the case in light of Sheriff's Department policies, and made his recommendations as to whether any necessary discipline or training for the involved deputies was warranted. The Office of Inspector General found several issues with how the investigation was conducted and what was included and excluded from the investigation.

### How Complaints are Generated

The WCSCR investigation into a deputy's conduct begins when the Sheriff's Department receives a complaint against a deputy. In this case, several members of the public voiced concerns over the deputies' actions. Two Sheriff's Department sergeants were on scene shortly after the call for service. They both told the Watch Commander they were not aware of any complaints. One of the sergeants who arrived on scene while the young males were still being detained told the Watch Commander, "the crowd had calmed and [redacted] [he] did not hear any statements regarding a knife nor did he speak with anyone who wanted to file a complaint." Yet, in the video, the members of the crowd are heard voicing displeasure at the deputies' conduct. On August 8<sup>th</sup>, the mother of a detained teenager posted a video of this incident on social media. She also expressed concerns about deputies' tactics.<sup>35</sup> In the comment section of the social media posting, several people voiced

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<sup>35</sup> Peebles, Stephen, "Smyth Calls for Removal of SCV Deputy Pending Investigation," Santa Clarita Valley News. August 10, 2020. <https://scvnews.com/smyth-calls-for-removal-of-scv-deputy-pending-investigation/>. (Accessed October 23, 2020).



concern over the deputies' actions. By August 10<sup>th</sup>, the mayor of Santa Clarita had requested a review of the incident, asking for the deputy involved to be taken out of the field.<sup>36</sup> On August 10<sup>th</sup>, Supervisor Barger expressed concern over the incident.<sup>37</sup> However, none of the social media postings or any of these parties' concerns prompted the Sheriff's Department to initiate a WCSCR investigation into the incident.

On August 10, 2020, an out-of-state civilian, called the Santa Clarita station to file a complaint based on what he had seen on social media and the news. A lieutenant answered the phone. The out-of-state complainant began his call by stating, "Am I able to make a complaint to you?" Those words are what prompted the Sheriff's Department to finally document a complaint and begin a WCSCR investigation.

The Sheriff's Department appears reluctant to receive public complaints. The same, however, cannot be said of commendations. Office of Inspector General representatives have attended meetings during which the Sheriff's Department management have repeatedly asked the Sheriff's Department supervisors to go out of their way to document commendations and compliments no matter how they come in or are heard. As eager as the Sheriff's Department is to document commendations, it must have the same attitude with public complaints. The crowd of onlookers, members of the public on social media, and community leaders all expressed concerns over this incident; however, since they did not contact the station directly nor did they expressly state they wanted to file a complaint, their concerns were not documented. Even in the absence of receiving an express public complaint, in situations such as this one, which received media coverage and scrutiny, supervisors and managers should have investigated the deputies' tactics to ensure they were sound.

In its response to this critique, the Sheriff's Department stated, "[t]he LASD Service Comment Report Handbook notes, public trust is vital to our mission, and rests on Department responsiveness to community needs and expectations. To foster public confidence in the Department and to promote constructive communication, commendations and complaints must be received with equal professional interest and courtesy, and given appropriate supervisory attention." While the Handbook may state this, in practice, as seen from how this particular complaint was handled, it does not seem the Sheriff's Department always receives with "equal professional interest and courtesy" commendations and complaints.

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<sup>36</sup> Ibid.

<sup>37</sup> Press Release, "Barger Releases Statement Regarding Incident Involving SCV Deputies," Santa Clarita Valley News. August 11, 2020. <https://scvnews.com/barger-releases-statement-regarding-incident-involving-scv-deputies/> (Accessed October 21, 2020).

## Interactions with Complainants

While the Sheriff's Department did initiate a WCSCR based upon the out-of-state complainant's telephone call, the complainant had to endure an uncomfortable back and forth discussion with the lieutenant recording the complaint. The complainant stated he had seen a video of police officers drawing guns on "boys of color."<sup>38</sup> The lieutenant stated he was aware of a video and stories out there, but he was not "sure that the narrative being portrayed is accurate; however, that is not for me to decide."<sup>39</sup> The complainant went on to state that he appreciated that law enforcement personnel have a difficult job, but he that he could not understand why in this incident deputies rolled up with assault rifles and guns drawn in a "SWAT team" like fashion.<sup>40</sup> He stated this "aggressive militarization" approach did not seem warranted.<sup>41</sup> The lieutenant asked the complainant, "May I ask you a personal question? Do you have a background in law enforcement?"<sup>42</sup> The complainant stated he did not.<sup>43</sup> The lieutenant then asked the complainant, if he knew the circumstances under which the deputies came to the scene and if it was possible there may be a situation the complainant could imagine where the deputies' actions may have been justified.<sup>44</sup> The complainant moved on and did not engage the lieutenant further. The complainant described himself as a white male.<sup>45</sup> He further stated, "Let's be honest we know, you know, as well as me, there are a lot of facts out there that are needed, I am sure that's the situation, but people of color are largely pressed on against in situations like this and you know it and I know it."<sup>46</sup> The lieutenant responded, "I don't agree with your assumption because I believe statistical data show otherwise and I respect your perspective."<sup>47</sup> The lieutenant took down the complaint, and the phone call ends shortly after. The lieutenant marked the box on the Sheriff's Department form stating the complainant was making a complaint as to the deputies' tactics and procedure, but he did not mark the box on the form for discrimination.

Even when the complainant stated those magic words, "I want to make a complaint," the Sheriff's Department representative's response is troubling. In this

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<sup>38</sup> Exhibit C, p.1.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid. p. 1-2.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

incident, a lieutenant, a person in a management role, challenged the complainant's knowledge of the incident; questioned the complainant as to whether he had law enforcement training, and disagreed with well-established data that minorities are disproportionately "pressed on in situations like this."<sup>48</sup> The Office of Inspector General has reported on how Santa Clarita station, the same station where this lieutenant is employed, disproportionately stopped minorities along the I-5 corridor.<sup>49</sup> There was no need for the lieutenant to voice any disagreement with the complainant or challenge the basis for the complaint. The complainant was not rude, nor did he voice, what one may describe, as an anti-law enforcement bias. In the audio recording of the conversation, the complainant recognized the need for law enforcement, commented on the difficult job they have, he acknowledged he did not have all the facts; all he asked of the Sheriff's Department was to look into his concerns about deputies pointing guns at teenagers.<sup>50</sup>

It should not take magic words to log a complaint, nor should it take magic words to have a complaint properly classified. The complainant stated to the lieutenant people of color, such as the young males in this incident, are treated differently by law enforcement. He did not state in exact words he believed the deputies were discriminating based on race, but it is clear his complaint included a complaint of discrimination. Also, on the video posted to social media, the videographer makes statements suggesting race may have played a factor in the deputies' actions. There was enough evidence for the Sheriff's Department to conclude citizens were concerned that race may have played a factor in the deputies' actions. The Sheriff's Department did not investigate if implicit or explicit bias may have played a role in the deputies' actions.

### **Parties Assigned to Investigate WCSCR**

The Watch Commander assigned to investigate the complaint was the on-duty watch commander when this incident occurred. In an audio recording of a conversation that took place during the incident, the Watch Commander can be heard calling from the station and speaking to the field deputies. The Watch Commander voiced concerns that the deputies were not updating him as to what was happening in the field. This same Watch Commander was assigned later to

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<sup>48</sup> BondGraham, Darwin, "Black People in California are Stopped Far More Often by Police, Major Study Proves," The Guardian. January 3, 2020. <https://www.theguardian.com/us-news/2020/jan/02/california-police-black-stops-force> (Accessed October 23, 2020).

<sup>49</sup> The Office of Inspector General, "The Los Angeles County Sheriff's Department Santa Clarita Valley Domestic Highway Enforcement Team," Office of Inspector General. April 2019. [https://oig.lacounty.gov/Portals/OIG/Reports/LASD\\_DHET\\_FINAL.pdf?ver=2019-04-19-155336-267](https://oig.lacounty.gov/Portals/OIG/Reports/LASD_DHET_FINAL.pdf?ver=2019-04-19-155336-267). (Accessed October 23, 2020).

<sup>50</sup> Exhibit C, p.1.

investigate whether the deputies' actions and conduct were justified. There is an inherent conflict of having a supervisor who oversaw an incident being assigned to investigate whether his/her employees acted properly under his/her direction during the incident. It is unquestionably a better practice to have an uninvolved Watch Commander investigate the incident.

This is not a novel recommendation, the Sheriff's Department's MPP requires that investigations, such as WCSCRs, be done by personnel who have had no direct involvement in the incident.<sup>51</sup> Because the Watch Commander was involved as the on-point supervisor, per the MPP he should not have been placed in charge of conducting the investigation and, by placing him in charge, a policy violation was committed but not investigated. If the Watch Commander's supervisors believed there were no other qualified personnel to conduct the investigation, the MPP requires the Watch Commander to document which of his managers directed him to conduct this investigation and why the manager tasked him with the job when it contradicts the MPP's directive. No such documentation was in the reports the Sheriff's Department provided to the Office of Inspector General.

### [Recording Deputies' Interviews](#)

The August 10, 2020 complaint began the Watch Commander investigation. By August 21, 2020, the investigation was completed. The WCSCR includes audio recordings of all the witness interviews, except for the deputies involved. Even the initial August 7<sup>th</sup> calls for service to the station and the complainant's conversation to file the complaint were recorded. Given that the Sheriff's Department can record interviews, it is unclear why the Sheriff's Department chose not to record the deputies' statements. The Watch Commander interviewed fifteen deputy personnel; yet, there is no audio recording of any of the interviews.

A WCSCR is a summary of facts. An audio recording may shed light on many of the nuances that may be left out in the summary. For example, while the complainant's complaint as to the deputies' tactics is part of the WCSCR, without the audio

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<sup>51</sup> See MPP Section 3-04/000.05, "Assignment of Subsequent Inquiry/Investigation" – "[a] supervisor who investigated, documented, or was directly involved in any incident shall not be assigned to conduct any subsequent inquiry/investigation (e.g., Watch Commander Service Comment Report review, civil claim review, lawsuit review, force review, administrative investigation) related to the same incident. If no other supervisor is available to conduct a subsequent inquiry/investigation, the concerned unit commander shall notify and confer with his division chief, who shall be responsible for deciding how to accomplish the inquiry/investigation. In cases where the involved supervisor is directed to complete a subsequent inquiry/investigation, the supervisor shall document the reason(s) why he/she was directed to conduct the inquiry/investigation and the name of the manager who directed it."

recording, no one would have been aware of other issues discussed. Also, a recording of the interview allows the reviewer to know what questions were asked, how they were asked, and when they were asked. It is paramount to have an audio recording of the interview, so a reviewer can know what deputies were asked, how they answered, and any questions that were not asked that should have been. The Sheriff's Department has the means to record statements and should record all interviews, including deputy interviews.

### *Focus of the Complaint*

The complainant stated he was concerned about the deputies pointing rifles and guns at people who "didn't deserve to have guns pointed at them." The focus of the WCSCR should have been whether the deputies' actions of pointing guns and rifles at three teenagers were proper based on what they knew at the time of the stop. The WCSCR, however, includes many miscellaneous items such as the teenagers' background, interview with a male Hispanic (who was not present when the deputies arrived and never spoke to deputies at the scene), and statements from other unrelated parties. It is unclear how this extraneous information is relevant to the deputies' mindset and actions at the time of the incident.

While the WCSCR calls for the Sheriff's Department's rifle policy to be updated, it makes no mention of whether the other deputies who pointed their firearms were justified in doing so. The investigation does not analyze or review those deputies' actions. It does not even provide insight as to the deputies' reasons for exiting their cars with guns drawn when the only potential weapon identified in the call for service was a skateboard. The complainant was concerned about all the guns displayed, not only the rifle. Until the Sheriff's Department addresses those concerns, this complaint should not be closed or considered resolved.

### *Biases in the Investigation*

On several occasions, the Office of Inspector General has noted the Sheriff's Department representatives provided a detailed description of a suspect or subject's background— a background which a responding officer was usually unaware of at the time of the incident. There is no reason to detail a subject's past contacts with law enforcement, except to muddy the subject's character and/or to garner sympathy for the deputies' actions. The WCSCR appears to employ these tactics. The deputies who responded did not know the teenagers' identities; yet, the WCSCR methodically lists the young males' contacts, if any, with law enforcement. Conversely, the report does not include the number of previous complaints, uses of force, or allegations of bias lodged against the deputies – information that is far more relevant in an investigation to determine if the deputies' actions were proper.

The Watch Commander who investigated the WCSCR appears to have had a bias in favor of the deputies, as is evidenced by passages like this in the WCSCR:

The deputies are under tremendous stress and social pressure due to anti-law enforcement rhetoric and defund the police protests which have been occurring almost daily since the end of May 2020. Due to these recent phenomena, coupled with the lack statements by [REDACTED], conflicting statements from detained persons, and an angry group telling the deputies they had the wrong person, it [is] understandable to see an inability for any deputy investigating the incident to determine what occurred while at the scene.

This appears to be an opinion provided by the Watch Commander to excuse the conduct of the deputies. The WCSCR report makes no mention of any statements by the deputies regarding anti-law enforcement rhetoric or defunding the police as having any influence on their actions or their ability to investigate the incident leading to the call for service. Office of Inspector General representatives have seen on several occasions where detectives or upper management of the Sheriff's Department excused or attempted to justify deputies' behavior by providing a narrative that the deputies were never asked about or even ascribed as having at the time of the conduct in question. The Watch Commander seems to be doing the same thing here with the addition of this passage in the WCSCR.

Another instance of possible bias is what is included and excluded from witness summaries. The Watch Commander summarized the witness's conversation in the WCSCR. In one of the summaries, he wrote a female witness stated she never saw the deputies treat the teenagers badly and opined the deputies were gentle when they put handcuffs on them. She did state this in her interview. What he failed to include, as heard in her tape-recorded interview, is her displeasure as to the deputies' initial response. In her interview, she remarked, "there was a disconnect between what was happening and the reaction [the deputies'] had." She felt deputies could have been calmer since the young males had their hands in the air and were not being aggressive. Surprisingly, given the nature of the complaint that led to this WCSCR, this commentary did not make it into the written summary. By only documenting what was favorable to the deputies and excising what was unfavorable, the WCSCR appears to be authored with a bias in favor of the deputies. While the tape recording of this witness's interview is included as part of the WCSCR, it is interesting that the WCSCR itself does not contain the witness' critique of the deputies' actions. One would expect for this to be included in a report detailing an investigation and arriving at conclusions.



### *Sheriff's Department's Classifications of Gang Affiliation*

In the WCSCR, the Watch Commander provides a detailed description of the three teenagers' backgrounds. According to documents provided, on August 10, 2020, detectives from the Sheriff's Department task force, C.O.B.R.A<sup>52</sup>, recognized the teenagers on the incident video and notified the Watch Commander. According to detectives from the task force, the teenagers had had run-ins with law enforcement. In their opinion, the three had formed a gang or clique who "had beef" with a Mexican gang. This information was included in the WCSCR. None of the deputies on scene had prior knowledge of the parties' background and/or possible gang affiliations when they pointed their firearms at them.

No documentation was provided as to why members of the task force believed these teenagers were part of a gang. One of the teenagers had had no criminal contacts at all. The other two had law enforcement contacts but had no convictions. No specifics as to why the teenagers were suspected of being in a gang were included in the WCSCR. In recent months, LAPD has come under fire for how it maintains and inputs data into the California Gang database.<sup>53</sup> If such information is included in a WCSCR, the Sheriff's Department should provide documentation as to the reasons these individuals were identified as belonging to a gang.

### *The Role of Supervisors in the Field*

There were two supervisors present at the scene of the incident. They both arrived shortly after the deputies had detained the three young men. The Watch Commander who investigated the WCSCR was working on the date and time of the incident. In an audio recording of a conversation that took place during the incident, the Watch Commander can be heard talking to an unknown deputy at the scene. The deputy told the Watch Commander that there was a large crowd, to which the Watch Commander inquired as to why there would be a large crowd at the scene (no answer is provided in the audio recording). The Watch Commander can be heard reading out loud what had been transmitted through the MDT, which is that deputies were detaining individuals at gunpoint. The same information the

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<sup>52</sup> C.O.B.R.A stands for Career Offenders Burglary and Robbery Apprehension Team. The team is usually staffed by one Sergeant and six detectives whose primary focus are on crimes involving alleged perpetrators under the age of twenty-one, gang related cases, and repeat offender cases.

<sup>53</sup> Dazio, Stefanie, "Police Can't Access LAPD Gang Database Records After Scandal," ABC News, July 14, 2020. <https://abcnews.go.com/Politics/wireStory/police-access-lapd-gang-database-records-scandal-71781518>

(Accessed October 27, 2020).

Watch Commander had at his disposal during this call presumably was available to the two sergeants who were at the scene.

It appears that the two sergeants failed to take charge of the incident, even though one of them knew there was a crowd, juveniles had been detained, and guns had been drawn. Line deputies stated the witnesses did not want to speak to them, which is contradictory to what one of the witnesses can be heard stating on the video. A female on the video can be heard asking to speak to the deputies to describe what happened. The handling deputy wrote "[the same witness] was irate about the detention, walked away and did not make any additional statements. The remaining members of the crowd refused to provide any further information. Due to their lack of cooperation, we could not establish a crime occurred." Just a few days later, this same witness spoke to the Watch Commander and described the incident. She seemed forthcoming about her observations. Even if the witness on August 7<sup>th</sup> was reluctant to speak to a line deputy, she may have been willing to speak to a supervisor. In the following week after the incident, several other witnesses called the station to report what they had seen and heard. The evidence seems to suggest there were witnesses on scene who may have been willing to talk to deputies. One of the sergeants stated to the Watch Commander, "[t]he crowd had calmed and [he] did not hear any statements regarding a knife nor did he speak with anyone who wanted to file a complaint." If the crowd was calm, some of the individuals may have been willing to talk to this sergeant about their observations, but the sergeant never inquired. A supervisor, a person who holds a position of authority and experience, who was not present during the initial incident, may have been the best person to locate and talk to these witnesses.

Also, the sergeant's statement there were no complaints is incorrect not only according to what is seen and heard on the video, but what is written in one of the deputies' reports. A deputy wrote in his report, one of the juveniles complained about being detained in the backseat. Per MPP section 5.09/520.10 on "Backseat Detention," deputies are required to explain to individuals why they are being detained in the backseat. If an individual complains about being detained, the deputy shall call a sergeant to respond to address the individual's complaint. It is unclear whether the deputy failed to notify his sergeant of the complaint, or the sergeant failed to act within policy to address the juvenile's complaint because neither of these actions was documented in the reports provided. Either scenario is troubling. It is unclear if this lack of follow-up of the juvenile's complaint was of concern to the Sheriff's Department as it is not addressed in any of the reports, memoranda, and/or investigation provided to the Office of Inspector General.

The sergeants had the opportunity to diffuse the situation, had the opportunity to investigate what happened, and had the opportunity to address the concerns of

community members. Instead, both sergeants took a hands-off approach and left the deputies to fend for themselves in a tense situation.

### *The Assault Investigation*

On August 7, 2020, the handling deputy spoke to one witness who stated the young men appeared to be the aggressors from the portion of the altercation he witnessed. However, one of the teenagers stated the male Hispanic was the aggressor. While they were detained, no one attempted to speak to the other two teenagers to ascertain what happened. The handling deputy stated he attempted to speak to other witnesses on scene, but none of the witnesses wished to speak to him. According to the WCSCR, deputies spent a total of twenty minutes on the scene, with at least seven to ten minutes captured on the video that was posted to social media. In those twenty minutes, deputies exited their cars with their guns drawn, waited for backup, had a discussion with the crowd, talked to one of the juveniles and another witness, and attempted to locate and speak to all other witnesses. At the end of the twenty minutes, the deputies decided no assault had occurred without talking to all the involved parties present at the scene. The deputies and sergeants left the scene and authored no reports. On August 13, 2020, after the video of the incident garnered attention on social media, some of the deputies authored police reports of what they remembered happening on August 7, 2020. Only one of the deputies received a reprimand for failing to write a report after the incident.<sup>54</sup>

The Sergeant later told the Watch Commander the teenagers were non-desirous of prosecution. It is unclear from whom he obtained this information since it is not reflected in any of the deputies' reports. The teenagers, nor their guardians, signed any forms stating they were non-desirous of prosecution. There were two juveniles detained. It is unknown if the deputies even contacted the minors' guardians to advise them of the detention or the fact that the teenagers could have been victims of a crime.

On August 14, 2020, the Watch Commander interviewed the male Hispanic who had left the scene for the WCSCR.<sup>55</sup> The male Hispanic told the Watch Commander

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<sup>54</sup> This reprimand was in the form of a Performance Log Entry, which is written documentation of supervisory notations about a deputy's performance. It is not considered to be formal discipline.

<sup>55</sup> The relevance of interviewing this witness for a WCSCR investigation is unclear since he was not present when the deputies' pointed their weapons at the teenagers. In the video provided to the Office of Inspector General, the

he had been at the bus stop talking to a friend when the three teenagers began to call him names. He exchanged words with the teenagers before deciding to leave. The teenagers followed him. The male Hispanic placed items he was carrying on the ground and turned around to face the teenagers. At that time, one of the teenagers punched him and another hit him with a skateboard. After being struck, the male Hispanic pulled out his belt and began swinging at the teenagers. At the end of the belt, the male Hispanic had a box cutter attached. The male Hispanic feared it would be a serious crime to be swinging around a belt with a knife, so he took the box cutter off his belt. People at the scene began yelling at him to leave, so he left. The male Hispanic provided what appears to be some questionable stories of previous incidents that day, including that he was beaten up three different times on that one day.

It is true several other eyewitnesses on the scene describe seeing the juveniles punch the male Hispanic and hit him with a skateboard. These same eyewitnesses only saw part of the altercation and opined the male Hispanic appeared to have mental health issues. He had no shirt on and was seen swinging a belt at other passersby. Other eyewitnesses reported the male Hispanic appeared to be the aggressor and came after the teenagers who had walked away. The male Hispanic has a lengthy criminal record of violent behavior. Yet, through all the reports, the deputies identify the male Hispanic as the victim and the three teenagers as the suspects based presumably on what the first male caller stated. While the Office of Inspector General cannot opine as to the guilt or innocence of any of the involved parties based on the information provided, the lack of investigation makes it difficult to draw any conclusions about whether a crime was committed and if so which of the involved parties committed it. Before any meaningful investigation, immediately following the incident on August 7, 2020, the deputies decided no crime was committed and identified no one as a suspect or a victim. On September 1, 2020, a Sheriff's Department detective spoke to the male Hispanic and in his paperwork and, in contrast to the earlier conclusion, he labeled the male Hispanic as the "victim" and the three teenagers as the "suspect" or "subject."<sup>56</sup>

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video tape recording of this interview had technical issues with only eleven minutes of a twenty-seven-minute video working.

<sup>56</sup> The detective who obtained the non-desirous prosecution form from the male Hispanic stated he attempted to speak to the "subjects"/ "suspects" – the three teenagers, but their attorney prevented him from talking to them. On August 10, 2020, as part of the WCSCR investigation, a lieutenant emailed the teenagers' attorney to "touch base with the family, so their voice can be heard on this incident." In the email exchange the parties are trying to coordinate a sit-down meeting with the Sheriff and the families. On August 12, 2020, the attorney asked for any information the Sheriff's Department has gathered as part of the investigation in order to review that information before having a sit-down and to facilitate a more substantive conversation during the meeting. The attorney was not provided the information he requested, nor does it appear there was a sit-down meeting between the families and the Sheriff. It is unclear if the detective investigating the assault ever contacted the teenagers' attorney or just

The Sheriff's Department should wait to label involved individuals as suspects or victims until a thorough investigation has been completed and all available parties are questioned. Pre-judging the guilt or innocence of the involved parties can lead to biased questioning and/or investigation. Because of the poor and rushed investigation at the onset, the investigation did not reveal who the aggressor was in the altercation between the three juveniles and the male Hispanic, or even the extent of any altercation.

## Recommendations

Based on the review of the documents provided by the Sheriff's Department for this August 7, 2020 incident, the Office of Inspector General makes the following recommendations:

1. The Sheriff's Department should revise its policy to make the unholstering and pointing of a firearm a reportable use of force, with requirement for routine monitoring and auditing consistent with the monitoring and auditing of other uses of force.
2. The Sheriff's Department's should revise its patrol rifle policy to include clear guidance as to the proper and improper deployment of a rifle. All deputies should undergo training consistent with any policy revisions. The deputy-involved shooting of Ryan Twyman in June of 2019 also raised concerns about the lack of policy and training on the use of rifles, yet no policy changes were implemented following that shooting.<sup>57</sup>
3. The Sheriff's Department should diligently document and investigate citizen complaints. A report that is critical of deputy conduct or suggests that conduct fell below the reporting party's expectations should be considered a complaint regardless of whether the reporting party designates it as a complaint. Treating all such service reports as complaints ensures that there will be a record of the conduct and an investigation. Allegations of racial bias should be investigated when race is mentioned.
4. The Sheriff's Department must ensure that personnel receiving complaints do not dissuade complainants or comment in a way that might be interpreted as minimizing the comments or discouraging the making of the complaint.

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assumed the teenagers would not speak to him based on what the attorney had said to the lieutenant investigating the WCSCR.

<sup>57</sup> Ryan Twyman died as the result of a deputy-involved shooting on June 6, 2019. The deputies involved fired a total of 34 rounds at a vehicle driven by Mr. Twyman. Some of the rounds were fired from a patrol rifle that one of the deputies retrieved from their patrol vehicle after the deputies fired multiple rounds from their service pistols. Given the number of rounds fired at the vehicle, it remains unclear why the deputy retrieved and fired the rifle.

5. The Sheriff's Department should insist upon compliance with its Manual of Policy and Procedure; personnel directly involved in an incident should not conduct any subsequent inquiry or investigation about that incident.
6. Efforts should be made to document favorable comments and unfavorable comments about the Sheriff's Department to provide an impartial assessment of facts and evidence.
7. The Sheriff's Department should audio and/or video record all interviews, including interviews of Sheriff's Department personnel.
8. When documenting an investigation, the background of the involved parties should include only relevant information. If a deputy was unaware of a party's background during an incident, it generally has no bearing on a deputy's conduct.
9. Labeling the parties to an incident as a suspect or a witness should not be done until the completion of the investigation.



## Los Angeles County Sheriff's Department's Response to the Office of Inspector General Report

### **How Complaints Are Generated**

1. *"On August 8<sup>th</sup>, the mother of a detained teenager posted a video about this incident on social media. She also expressed concerns about the deputies' tactics. In the comment section of the social media posting, several people voiced concern over the deputies' actions. By August 10<sup>th</sup>, the mayor of Santa Clarita had requested a review of the incident, asking for the deputy to be taken out of the field. On August 10<sup>th</sup>, Supervisor Barger expresses concern over the incident. However, none of the social media postings or any of these parties' concerns prompted the Sheriff's Department to initiate a WCSCR investigation into the incident."*

Response: The LASD Service Comment Report Handbook notes, the public can make a complaint and/or commendation by mail, in person, by telephone to a specific station/unit, via the 800 Line [800-698-8255] or by e-mail/fax, and may submit the comment in their native language. A formal complaint (via telephone to the Watch Commander) was not made until August 10<sup>th</sup>, at which time a WCSCR/complaint was completed. WCSCR complaints are not generated based on social media comments, community leader concerns, or onlooker concerns.

2. *"The Sheriff's Department appears reluctant to receive public complaints. The same, however, cannot be said for commendations."*

Response: The LASD Service Comment Report Handbook notes, public trust is vital to our mission, and rests on Department responsiveness to community needs and expectations. To foster public confidence in the Department and to promote constructive communication, commendations and complaints must be received with equal professional interest and courtesy, and given appropriate supervisory attention.

### **Parties Assigned to Investigate WCSCR**

1. *The Watch Commander assigned to investigate the complaint was the on-duty watch commander when the incident occurred. In an audio recording of a conversation that took place during the incident, the Watch Commander can be heard calling from the station and speaking to the field deputies. The Watch Commander voiced concerns that the deputies were not updating him as to what was happening in the field... There is an inherent conflict of having a supervisor who oversaw an incident being assigned to investigate whether his/her employees acted properly under his/her direction during the incident."*

Response: The on-duty Watch Commander did not have any direct involvement over the actions of the deputies and/or sergeants in the field. Additionally, the Watch Commander did not speak to the field deputies. Rather, the Watch Commander called the dispatcher at Sheriff's Communication Center (SCC) on the cold-line, to determine

what had transpired and ensure a sergeant was responding. The Watch Commander attempted to determine the status of the crowd and the suspects being detained at gunpoint. The Watch Commander did not order any actions by the field personnel, nor was he directly involved in the incident. However, given that the watch commander did note a conclusion in his log entry that the actions of the deputies were proper, the Sheriff's Department agrees it may have been better to have an uninvolved supervisor handle the subsequent complaint inquiry.

### **Recording Deputies' Interviews**

1. *"Given that the Sheriff's Department can record interviews, it is unclear why the Sheriff's Department choose not to record the deputies' statements."*

Response: The LASD Service Comment Report Handbook notes, the Watch Commander should solicit input from the employee, either verbal or written. It does not direct a recorded interview of an employee.

### **Focus of the Complaint**

1. *"The focus of the WCSCR should have been whether the deputies' actions of pointing guns and rifles at three teenagers were proper based on what they knew at the time of the stop. The WCSCR, however, includes many miscellaneous items such as the teenagers' background, interview with a male Hispanic (who was not present when the deputies arrived and never spoke to the deputies at the scene), and statements from other unrelated parties."*

Response: One focus of the WCSCR was Improper Tactics (deployment of guns and rifles) as marked on the form. The review sufficiently established that pointing a rifle (and guns) at three Assault with a Deadly Weapon suspects, was within Department policy. The Sheriff's Department is in the process of reviewing policy and the criteria with respect to the deployment of the patrol rifle.

The information pertaining to the background of the three individuals (1 male White adult and 2 male African American juveniles), the interview/background of the fourth individual involved (1 male Hispanic adult), and the statements of the informants/passersby's were included in the WCSCR to provide a complete overview of the incident.

### **Biases in the Investigation**

1. *"There is no reason to detail the subject's past contacts with law enforcement, except to muddy the subject's character and/or to garner sympathy for the deputies' actions."*

Response: The information pertaining to all four of the individuals' past contacts with law enforcement were included in the WCSCR to provide a complete overview of the incident.

2. *“Conversely, the report does not include the number of previous complaints, uses of force, or allegations of bias lodged against the deputies – information that is far more relevant in an investigation to determine if the deputies’ actions were proper.*

Response: The information pertaining to the deputies’ previous complaints and uses of force are not included in a WCSCR. Rather, that information is included within a Performance Recording and Monitoring System (PRMS). Information detailed in PRMS pertaining to past incidents, would not be used to determine if the deputies’ actions were proper during the current incident.

3. *“The Watch Commander who investigated the WCSCR appears to have had a bias in favor of the deputies, as evidenced by passages like this in the WCSCR: ... Due to these recent phenomena, couple with the lack of statements by \_\_\_\_, conflicting statements from detained persons, and an angry group telling the deputies they had the wrong person, it [is] understandable to see an inability for any deputy investigating the incident to determine what occurred while at the scene.”*

Response: It is acceptable and quite common for the Watch Commander to form an opinion based on the information gathered. That opinion is used in-part, to justify their conclusion when making a disposition recommendation in the WCSCR.

### **Sheriff’s Department’s Classifications of Gang Affiliation**

1. *“... detectives from the Sheriff’s Department task force, C.O.B.R.A., recognized the teenagers on the incident video and notified the Watch Commander... In their opinion, the three had formed a gang or clique who “had beef” with a Mexican gang... None of the deputies on scene had prior knowledge of the parties’ background and/or possible gang affiliations when they pointed their firearms at them... No specifics as to why the teenagers were suspected of being in a gang were included in the WCSCR.”*

Response: The WCSCR did note two of the teenagers had criminal records which included several contacts with deputies and juvenile/gang detectives. As such, COBRA detectives had knowledge of the gang. For purposes of a WCSCR, written documentation is not needed to show the three individuals had formed a gang. Specifics beyond what was noted, are not required for the WCSCR.

### **The Role of Supervisors in the Field**

1. *“... the Watch Commander can be heard talking to an unknown deputy at the scene. The deputy told the Watch Commander that there was a large crowd, to which the Watch Commander inquired as to why there would be a large crowd at the scene... The same information the Watch Commander had at his disposal during this call presumably was available to the two sergeants who were at the scene.”*

Response: The Watch Commander called the dispatcher at Sheriffs Communication Center (SCC) on the cold-line, to determine what had transpired and ensure a sergeant was responding. The Watch Commander attempted to determine the status of the

crowd and the suspects being detained at gunpoint. The SCC dispatcher provided the information directly to the Watch Commander and it was not necessarily relayed directly to the field sergeants.

2. *"It appears the two sergeants failed to take charge of the incident, even though one of them knew there was a crowd, juveniles had been detained, and guns had been drawn."*

Response: The first sergeant arrived and spoke to the handling deputy who determined at best, a misdemeanor assault (242 PC) had occurred, and the three detained individuals (1 male White adult and 2 male African American juveniles) were non-desirous of prosecution. They were unable to locate the fourth individual (male adult) involved, who had left the location prior to arrival. He directed the deputies to release the three detained individuals. The crowd had calmed and the sergeant did not hear any statements about a knife involved or filing a complaint. The second sergeant arrived and confirmed there was no reportable use of force (under current policy), crime, or complaint that he was aware of. He left the location and assisted units who were searching the area for the fourth individual who had left the scene prior to their arrival.

3. *"A deputy wrote in his report, one of the juveniles complained about being detained in the backseat... If an individual complains about being detained, the deputy shall call a sergeant to respond to address the individual's complaint. It is unclear whether the deputy failed to notify his sergeant of the complaint, or the sergeant failed to act within policy to address the juvenile's complaint because neither of these actions was documented in the reports provided."*

Response: The supplemental report authored by the deputy noted the individual detained inside his backseat of his patrol vehicle was very angry as a result of the detention. Individuals are often angry for various reasons when they are detained by law enforcement. However, being angry about a detention does not necessarily result in a formal complaint.

4. *"The male Hispanic has a lengthy criminal record of violent behavior. Yet, through all the reports, the deputies identify the male Hispanic as the victim and the three teenagers as the suspects based presumably on what the first male caller stated... the lack of investigation makes it difficult to draw any conclusions about whether a crime was committed and if so which of the involved parties committed it."*

Response: The call for service noted the individuals at the bus stop hit the victim with a skateboard and the victim had left the location. Thus, the three individuals were identified as suspects in the body of the Incident and Supplemental Reports.

5. *"On September 1, 2020, a Sheriff's Department detective spoke to the male Hispanic and in his paperwork and, in contrast to the earlier conclusion, he labeled the male Hispanic as the "victim" and the teenagers as the "suspect" or "subject."*

Response: A detective interviewed the male Hispanic on August 13, 2020. The male Hispanic was referred to as a "victim" throughout the detective's investigation.

Furthermore, based on the information gathered, the detective determined the male Hispanic was in fact the victim of the assault.