

A REPORT BY
THE 2016-2017 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553

Report 1710

**Law Enforcement Use of Force and
Mental Health Awareness**

APPROVED BY THE GRAND JURY:

Date:

6/15/17


JIM MELLANDER
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date:

6/16/17


JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1710

Law Enforcement Use of Force and Mental Health Awareness

TO: Contra Costa County Sheriff

SUMMARY

There has been widespread national news and social media discussion about excessive use of force by law enforcement agencies. The Grand Jury examined Use of Force policies and hiring practices of 24 law enforcement agencies in Contra Costa County (County) to determine the risks and safety issues of local community policing conditions.

All surveyed County law enforcement agencies have strict and well-enforced Use of Force policies. They also have rigorous hiring and training practices. One key hiring criterion is the ability to communicate with a wide variety of people, including those afflicted with mental issues.

Two programs, the Crisis Intervention Team (CIT) and the Mental Health Evaluation Team (MHET), have been identified as innovative approaches to dealing with those who have mental health issues. These programs should be expanded where feasible.

METHODOLOGY

The Grand Jury:

- Conducted internet and document research
- Surveyed 24 County law enforcement agencies about Use of Force policies and incident review procedures
- Interviewed senior police officials whose departments cover approximately 85% of County's population
- Interviewed senior officials in the Office of the Sheriff and the District Attorney's Office
- Visited the Contra Costa Law Enforcement Academy

DISCUSSION

Use of Force Policies

County law enforcement agencies are governed by departmental policies. A Use of Force policy is based on the law, best practices, and the concept of "reasonableness." That concept is the requirement that an officer use the amount of force that reasonably appears necessary to bring an incident under control. The decision is made by the officer in the field based on circumstances and training. In some cases, deadly force may be used when officers believe that they or another person are presented with an imminent threat of death or serious injury.

All twenty-four surveyed police departments in the County have a Use of Force policy that provides guidelines on the uses of force. Seventeen of these police departments have a Use of Force policy designed by Lexipol, a vendor of various policy documents for police, custody, and fire departments. Lexipol provides regular periodic policy and training updates to keep its clients current on changes in the law, and emerging best practices. The Lexipol policy may be adapted by an individual department to reflect the makeup of the community. Three police departments in the County have designed their own Use of Force policies. Three of the cities contract with the Office of the Sheriff (Sheriff) for police services and, therefore, their police departments use the same Use of Force policy as the Sheriff. The AC Transit agency, which contracts with the Alameda County Sheriff for police services, uses the Alameda County Sheriff's Use of Force policy.

All policies describe when and how force is to be used, when medical aid is needed, and how an incident is to be reported and reviewed. The policies cover a wide range of force, including handcuffing, striking by hand or baton, use of electronic devices, and use of firearms.

Investigating Use of Force Incidents

Investigations are required after each use of force incident, as specified by the local policy. Three levels of investigation can be applied to each incident involving use of force:

1. Jurisdictional Agency

Under one type of investigation, the law enforcement agency where the incident takes place has jurisdiction and performs the investigation. Typically, this investigation would start with a filed report and a review by the supervising Sergeant, and senior officers as necessary.

2. Contra Costa Protocol

A second type of investigation is performed pursuant to Contra Costa Protocol, which was adopted based on a 1984 agreement among law enforcement agencies in the County and the District Attorney's Office. Pursuant to this protocol, a team from the District Attorney's office investigates any officer involved shooting and any incident resulting in serious injury or death; for example, those resulting from a vehicle pursuit. The sole purpose of the District Attorney's investigation is to determine if the suspect or the police officer violated the law. The protocol is used to insure a fair and impartial investigation and to ensure that charges are filed appropriately.

3. Coroner's Inquest

In the event of a law enforcement-related death, a Contra Costa Coroner's inquest is convened. The inquest involves a public hearing where a jury is impaneled and sworn testimony is taken. The inquest adds transparency and open access to the circumstances surrounding the death and all aspects of the investigation. The hearing officer takes testimony from witnesses and gives instructions to the jury to determine the manner of death.

Officer Selection and Training

Police officer hiring is a rigorous process. Candidates are held to high standards, including the ability to communicate with a wide variety of people. Applicants for employment with law enforcement agencies undergo extensive background examinations and psychological testing in addition to interviews and tests of physical ability. In a recent hiring cycle, of 1,000 potential candidates for the Sheriff, 22 were accepted.

All California police officer candidates must complete a curriculum that complies with the California Commission on Peace Officer Standards and Training (POST). Accepted candidates, who have not already completed POST certification elsewhere, attend the Basic Course taught at the Law Enforcement Training Center. This Center is operated by the Contra Costa County Sheriff, and is one of 38 POST-certified police academies in California.

Police officers then receive additional field training during an initial probationary period from the departments where they are employed. That training reinforces the training that they received at the police academy and introduces the policies and procedures used by that department, including use of force. Training is an ongoing process that continues throughout an officer's career.

Dealing with Mental Health Issues

Two innovative mental health-related programs may reduce or eliminate the need to use force:

Crisis Intervention Team (CIT) Training

In many police encounters, mental illness or intoxication is a factor. CIT was originally developed in Memphis in 1988 following a police shooting of a mentally ill man.

Scientific studies have found that CIT trained officers are better able to identify someone with a potential mental illness. The trained officers are more likely to refer that person to treatment, feel better prepared to respond to such incidents, and are more aware of local treatment availability. Less formal studies that have been published in law enforcement journals report CIT trained officers have a significant drop in their injury rates and are less likely to escalate to a SWAT response. There is no formal tracking method or analysis of the use of CIT techniques to determine its effectiveness locally.

The Sheriff and the County Behavioral Health Services conduct CIT training as a 32-hour course open to police officers from all police departments in the County. CIT teaches police officers to recognize persons in crisis from mental illness or substance abuse. When they identify such a person, they will attempt to get the person medical attention, rather than into the justice system, if no crime has been committed. Techniques taught include slowing down the approach to a subject, giving him or her space, and speaking in calm tones because the subject may not be able to understand the officer's commands.

CIT has been attended by officers from most local police agencies. It is estimated that approximately 30% of the police officers in the County have CIT training. However, there is no formal system in place that tracks how many officers in the field have had CIT training. The Sheriff is not informed when a trained local police officer retires, transfers, or when a new hire is already trained.

There are preliminary plans to expand CIT training. The Contra Costa Police Chiefs Association is exploring the creation of a CIT program that would be similar to the Sheriff's course and coordinated with it. The goal of creating such a course would be to provide CIT training to all police officers as soon as possible. The California POST Commission is considering inclusion of CIT training.

Mental Health Evaluation Teams

The Behavioral Health Services division of the Contra Costa County Health Services Department and the police departments of Concord, Pittsburg and Richmond have created regional Mental Health Evaluation Teams. These teams, which include a clinician from Behavioral Health Services and a police officer, provide follow-up help to people referred to the police for possible mental health issues. The team's goal is to

offer treatment and benefits, to potentially avoid further police intervention, and to mitigate the possibility of violence.

The MHET program was started in 2015 with funding by a \$380,000 grant from the California Public Safety Realignment Act (AB 109) and a three-year \$550,000 grant from the California Health Facilities Financing Authority. Since inception, there have been 223 referrals from police departments and mental health agencies. Of the people assisted by a MHET team, 61% had no follow-up incidents.

FINDINGS

- F1. There are at least three possible agencies that may investigate a use of force incident involving the Sheriff's Office.
- F2. The agency or agencies responsible for investigating a use of force incident involving the Sheriff's Office depend on the severity of force and if it resulted in injury or death.
- F3. During the hiring process, selection of candidates for police officer training is detailed and thorough.
- F4. CIT training provides effective techniques for law enforcement officer to engage with persons in mental crisis or intoxicated with drugs or alcohol.
- F5. CIT training may reduce or eliminate the need for a law enforcement officer to use force.
- F6. A substantial number of law enforcement officers in the County have not yet attended CIT training.
- F7. The Sheriff's Office does not have a method to provide updated CIT training material for past attendees of CIT training.
- F8. The Sheriff's Office does not operate a MHET team.
- F9. The Sheriff's Office has not studied whether implementing a MHET team would be an effective way to reduce the number and severity of Sheriff deputy responses to mental health related calls.

RECOMMENDATIONS

- R1. The Sheriff should consider broadening and enhancing CIT training to educate all law enforcement officers.
- R2. The Sheriff should consider coordinating with the Contra Costa Police Chiefs Association in their effort to create additional CIT training in the County.
- R3. The Sheriff should consider researching methods to document the effectiveness of CIT training, and identifying funds to do so.
- R4. The Sheriff should consider providing annual updates of CIT training course materials to police departments in the County, and identifying funds to do so.
- R5. The Sheriff should consider conducting a feasibility study to determine the benefits of establishing additional MHET teams.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Sheriff	F1 to F9	R1 to R5

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

