



Board Report

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Agenda Number: 26.

OPERATIONS, SAFETY, AND CUSTOMER EXPERIENCE COMMITTEE SEPTEMBER 17, 2020

SUBJECT: REPORT BACK ON USE OF FORCE POLICIES

ACTION: RECEIVE AND FILE

RECOMMENDATION

RECEIVE AND FILE on 'Use of Force' policies followed by Metro policing contractors and employees.

ISSUE

At the June 2020 Regular Board meeting, Board Directors Hahn, Solis, and Butts filed motion #35, requesting System Security and Law Enforcement (SSLE), the Executive Officer for Equity and Race, and the Office of Civil Rights, to report back in 90 days with a review of the use of force policies (Part A) and recommendations on how to further reform policing (Part B) at Metro and reallocate resources for homelessness outreach and services (Part C).

BACKGROUND

On May 25, George Floyd was killed by a Minneapolis police officer during his arrest. That tragedy sparked nationwide demands to reform policing and calls for alternative methods to address public safety issues and non-violent crimes. The organization "Campaign Zero" has identified eight 'Use of Force' policies that have been shown to reduce the number of officer-involved killings. These policy reforms include:

- 1) Requiring officers to de-escalate situations, when possible, before using force
- 2) Using a Force Continuum or Matrix that defines and limits the types of force that can be used to respond to specific types of resistance
- 3) Restricting, or prohibiting, the use of chokeholds, strangleholds, and carotid restraints
- 4) Requiring officers to give a verbal warning before using deadly force
- 5) Prohibiting officers from shooting at people in moving vehicles unless the person poses a deadly threat
- 6) Requiring officers to exhaust all other reasonable alternatives before resorting to using deadly force
- 7) Requiring officers to intervene to stop another officer from using excessive force
- 8) Requiring comprehensive reporting that includes both uses of force and threats of force

Using these eight 'Use of Force' policies as a premise, Metro staff has reviewed the respective policies for its policing contractors, subcontractors, and employees and proposed recommendations as outlined in this report.

Beyond this review, Metro is identifying opportunities to support continued implementation of the 21st Century Policing Standards, a set of evidence-based recommendations to foster trust, legitimacy, community-policing, diversity, training and education. These efforts will improve the department and provide its partners the opportunity to collaborate with the community and develop a more accountable culture of policing.

Additionally, this report provides a review of the current and on-going efforts to reallocate funding to support homelessness outreach and services.

DISCUSSION

PART A: 'Use of Force'

As part of the initial consideration for responding to this request, SSLE conducted a review and comprehensive analysis of all of the 'Use of Force' policies and protocols for LAPD, LASD, LBPD, Metro Transit Security, RMI International and its subcontractors. The purpose for this analysis was to identify the areas where these departments were consistent with the "Campaign Zero" objectives. Additionally, as part of the review, SSLE factored in the recommendations from the LA County Sheriff Civilian Oversight Commission. This document will describe a pathway forward to include recommendations that Metro can implement in its existing and future contracts.

The attached matrix (Attachment A) encapsulates the review of the existing 'Use of Force' policies and their consistency with the spirit of the "Campaign Zero". The attachment provides Metro's review and assessment of whether the agencies '*Meets*' or '*Fails to Meet*', key elements of the recommendations. SSLE has met with its policing contractors, subcontractors, and requested they review and update their policies to reflect the "Campaign Zero" reforms.

Overall, the policing agencies are in compliance with the spirit of 'Campaign Zero' with few exceptions. Each of the policies that fail to meet the standard is currently being reviewed or revised. Additionally, each of the private security contractors has agreed to work with SSLE and update their policies. SSLE will use its 'Office of Compliance' to audit these best practices in the future and will include updates on their progress during the Monthly Transit Safety and Security Performance Report. These actions will help create a safer experience and a world class transportation system for all.

PART B: Reforming Policing

Metro's Transit Security:

Within the next 90-days SSLE will complete its review of Transit Security's policies, training, 'Use of Force', complaint and community engagement practices. SSLE will work with the Office of Civil Rights, the Executive Officer for Equity and Race, and the Transit Public Safety Advisory Committee

to implement reform recommendations within the following categories.

Recruitment:

- Psychological: Current psychological screening of Transit Security Officers assesses for racism which is a disqualifier. SSLE staff will work with our contract psychologist to determine if there is additional implicit bias screening that would add value to the evaluation.
- Background: As part of the existing hiring process, staff will ensure that the background investigation process includes a review of character history to include interviews with previous employers, friends, family and social media presence to detect any history of biases. If the determination is made that a bias is inappropriate, the candidate would not proceed in the hiring process.
- Field Training Officer Program: The field training officer program is the next and final step for a Transit Security Officer (TSO) I to become a full-time employee. This program entrusts a Senior Transit Security Officer to observe and evaluate the interactions of their trainees with Metro's patrons and employees. This process documents personality and character traits of the trainee to allow a senior officer to determine potential issues with performance. The probation period is one-year and during this time period, if a TSO I shows any evidence-related biases they will receive additional evaluation to determine the appropriate course of action. If the issues are significant the TSO I can be terminated.

Accountability:

- Implement a Transit Security Body Worn Video Program in partnership with Metro's labor unions (*funding required*).
- Develop a new 'Use of Force' complaint and performance tracking system to provide an early warning of substandard employee behavior patterns. This will automatically initiate an investigation to determine if there are any potential issues that need to be addressed either through training or disciplinary action if warranted (*funding required*).
- SSLE is currently reviewing its manual, policies and procedures to ensure that they meet current use of force, command and control, de-escalation and community engagement standards.

Training:

- Partner with the Office of Civil Rights and the Executive Officer for Equity and Race to expand training for new personnel and provide ongoing training for existing personnel. To include, but not limited to implicit bias (with a test for awareness), anti-racism, customer service, de-escalation, 'Use of Force', Less-than-lethal options and command and control.
- Continue to research Less-than-lethal devices to provide Transit Security Officers with options to de-escalate situations and to minimize the impact to an individual.
- Acquire a Force Options Simulator to provide critical enhanced de-escalation training.

Law Enforcement and Private Security:

SSLE is committed to increasing community engagement, oversight, and accountability.

Metro currently has, as part of its contractual oversight, the ability to remove law enforcement or security officers who act in any manner on Metro's property that is inconsistent with Metro's values.

As Metro works with PSAC, to develop the scope of work for the next multi-year law enforcement and security contracts, there will be new guidance that references the 'Campaign Zero' objectives, as well as recommendations from the LA County Sheriff's Civilian Oversight Commission and elements from the 21st Century Policing Model cited by the California Commission on Peace Officer Standards and Training (2020 publication).

With the implementation of these efforts, SSLE anticipates that these collective actions will meet or exceed the spirit of "Campaign Zero" and place Metro on a path of continued excellence to provide world-class treatment of all its patrons.

PART C: Reallocation of Resources for Homelessness Outreach

SSLE continues to reallocate resources from its existing policing contract to provide supportive outreach and housing. Within the current base contract there was approximately \$12.5M allocated to this effort. Since 2018 we have adjusted staffing numbers and responsibility to meet the increased demands for outreach to address the customer service complaints, conditions on the system and requests for increased security and safety from our employees.

These staff augmentation included the following reallocations, which increased funding by \$19.5M for the term of the contract totaling \$32M, an increase of 156%:

LAPD: SSLE increased the Homeless Outreach and Proactive Engagement (HOPE) Team from four officers on overtime to eleven full-time officers. These teams now work hand-in-hand with People Assisting the Homeless (PATH) and are dedicated full-time to this effort. Additionally, as of March 2020, the LAPD Special Problems Unit (SPU) consisting of one sergeant and ten officers have been redirected to support 'Operation Shelter the Unsheltered.'

LASD: The Mental Evaluation Team (MET) is fully deployed to support outreach and provide services at various locations throughout the system and this effort has increased by four deputies due to growing demands on Metro. SSLE directed the Threat Interdiction Unit (TIU) consisting of sixteen deputies be reassigned to the Special Assignment Unit (SAU) to focus on emerging problems and initiatives such as 'Operation Shelter the Unsheltered.'

LBPD: In support of A-Line enhancements, subsequent to the establishment of the initial contract, SSLE authorized the creation of 'Quality of Life' teams consisting of three full-time officers that focus exclusively on working with the unhoused in Long Beach.

In collaboration with these law enforcement initiatives, in 2019 SSLE doubled the PATH teams dedicated to outreach and engagement to 40 members increasing their footprint throughout the Metro system.

Through 'Operation Shelter the Unsheltered', our policing contractors and PATH have been able to

provide housing and services to over 500 individuals since April 2020. SSLE will continue to build partnerships and seek funding to expand on this success and provide humanitarian aid and presence to improve safety and security on the system.

FINANCIAL IMPACT

In 2017, Metro initiated its multi-year law enforcement contract of \$645.7M over a five-year period. We are currently in year four of the contract and have expensed 70% of its value due to increased demands to address urgent agency security needs, which resulted in a decrease of 30.87% for Part 1 crimes, increase of 1% in Part 2 crimes, that is an overall reduction of 16.35% over the past three years. As such, we only have 30% remaining to support year four and five of the contract which is insufficient to meet the baseline services. Staff will report back to the Board of Directors with the contract financial state and next steps.

Additionally, the RMI security contract is valued at \$105.4M including the recent increase of \$25M awarded by the Board of Directors in February 2020. This increase was in response to agency-wide security demands and to stop unlawful intruders from entering ancillary area. These efforts are ongoing to protect our employees and infrastructure and to addresses customer complaints.

Currently, as of June 2020 there remains approximately \$31M in the RMI Security contract value which expires in September 2021. SSLE reviewed cost savings measures to address the fiscal challenges of the agency and found opportunities for savings by identifying more efficient and effective deployment models. These savings currently approximate up to \$3.5M of contract value, which we will apply to homeless outreach efforts.

Based on this fiscal analysis of contractual obligations and available funding, SSLE will take advantage of any and all available savings generated by our cost reduction measures. These actions collectively address the elements of this motion to allocate funding to support the unhoused services currently in demand (i.e. hotel beds, PATH Staff, etc.)

We will expand on our success by working to provide additional opportunities for community-based organizations, and experienced service providers to contract for unhoused service initiatives, expanding outreach and working with the Metro's Office of Extraordinary Innovation (OEI) for discovery of the most cost-effective housing and supportive transportation opportunities.

NEXT STEPS

Staff will report back on our contractors and subcontractors progress in adopting the recommended 'Use of Force' policies. Reallocation of funding will be addressed in future board amendments to current contracts; and in the next multi-year/multi-agency law enforcement contract, with input from the Transit Public Safety Advisory Committee (PSAC).

ATTACHMENTS


Attachment A - Campaign Zero Eight 'Use of Force' Policies Matrix

Prepared by:

Aston T. Greene, Executive Officer, System Security and Law Enforcement, (213) 922-2599
Ron Dickerson, Deputy Executive Officer, System Security and Law Enforcement, (213) 922-4948
Aaron Weinstein, Executive Officer for Customer Experience, (213) 922-3028
KeAndra Cylear Dodds, Executive Officer for Equity and Race, (213) 922-4850
Imelda Hernandez, Chief Administrative Analyst, (213) 922-4848

Reviewed by:

Bob Green, Chief System Security and Law Enforcement Officer, (213) 922-4811
Jonaura Wisdom, Chief Civil Rights Officer, (213) 418-3168



Phillip A. Washington
Chief Executive Officer

Campaing Zero: Eight 'Use of Force' Policies

Campaing Zero: Eight 'Use of Force' Policies								
	Law Enforcement			Security				Transit Security
8 Police Reforms: "8 Can't Wait"	LAPD	LASD	LBPD	RMI	North American Security & Investigations Inc.*	Allied Protective Services*	American Eagle Protective Services Inc.*	Metro Transit Security
1 Requiring officers to de-escalate situations, when possible, before using force	Meets	Meets	Meets	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)
2 Using a Force Continuum or Matrix that defines and limits the type of force that can be used to respond to specific types of resistance	Meets	Meets	Meets	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)
3 Restricting, or prohibiting, the use of chokeholds, strangleholds and carotid restraints	Meets	Meets	Meets	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)
4 Requiring officers to give a verbal warning before using deadly force	Meets	Meets	Meets	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)
5 Prohibiting officers from shooting at people in moving vehicles unless the person poses a deadly threat	Meets	Meets	Fails to Meet (In review)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)
6 Requiring officers to exhaust all other reasonable alternatives before resorting to using deadly force	Meets	Meets	Meets	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)
7 Requiring officers to intervene to stop another officer from using excessive force	Meets	Meets	Meets	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)
8 Requiring comprehensive reporting that includes both uses of force and threats of force	Meets	Meets	Fails to Meet (In review)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)	Fails to Meet (Revisions in progress)

*Subcontractors



Reimagining Public Safety Use of Force Policies

Operations, Safety, and Customer Experience Committee

2020-0571

Motion #35: Use of Force Policies

- A. Review training and Use of Force policies followed by law enforcement partners, private security, and Transit Security
- B. Propose recommendations on how to further reform policing and reallocate resources for homelessness outreach

Assessment Methodology

- SSLE's Initial Assessment: Identified 'Meets' based on achieving the '8 Can't-Wait' (The spirit identified the training and other policies that the agency noted as they agreed to update written policies to reflect existing practices).
- LA County OIG Assessment: Evaluated adherence to the '8 Can't-Wait' guidance solely on the basis of 'written policies'. It did not include training that has the use of force policy within the law enforcement industry.
- Campaign Zero: Identified the performance of L.E. agencies and identified a differing interpretation than the OIG report related to compliance.
- Substantively, these interpretations are vastly different, but Metro will clearly work toward ensuring that our contractual oversight makes all agencies adhere to Metro's stated values.

LONG BEACH, CA

Last Updated 7/14/2020

Mayor Robert Garcia

Since 8Can'tWait's launch, the city initiated a review on all Use of Force policies (2 of 8 in place). There is now a temporary ban on carotid holds and the ban on chokeholds is now more restrictive. A bill banning carotid and chokeholds across California will be in legislation until 8/31/20.

- ✔ Bans Chokeholds and Strangleholds
- Requires De-escalation
- ✔ Requires Warning Before Shooting
- ✔ Requires Exhaust All Alternatives Before Shooting
- Duty to Intervene
- Ban Shooting at Moving Vehicles
- Has Use of Force Continuum
- Requires Comprehensive Reporting

Resources Policy Memo

LOS ANGELES COUNTY SHERIFF, CA

Last Updated 8/19/20

Sheriff Alex Villanueva

Since 8Can'tWait's launch, the city is considering a ban on neck restraints (5 of 8 in place). A bill banning carotid and chokeholds across California is in legislation.

- Bans Chokeholds and Strangleholds
- ✔ Requires De-escalation
- ⚠ Requires Warning Before Shooting
- ✔ Requires Exhaust All Alternatives Before Shooting
- ✔ Duty to Intervene
- ✔ Ban Shooting at Moving Vehicles
- ✔ Has Use of Force Continuum
- ⚠ Requires Comprehensive Reporting

Resources Policy Memo

LOS ANGELES, CA

Last Updated 6/1/2020

Mayor Eric Garcetti

Since 8Can'tWait's launch, 4 new policies adopted in LA and California is reviewing a bill banning carotid and chokeholds statewide (6 of 8 in place).

- ✔ Bans Chokeholds and Strangleholds
- ✔ Requires De-escalation
- ✔ Requires Warning Before Shooting
- ✔ Requires Exhaust All Alternatives Before Shooting
- ✔ Duty to Intervene
- ✔ Ban Shooting at Moving Vehicles
- ✔ Has Use of Force Continuum
- ✔ Requires Comprehensive Reporting

Resources Policy Memo



Findings

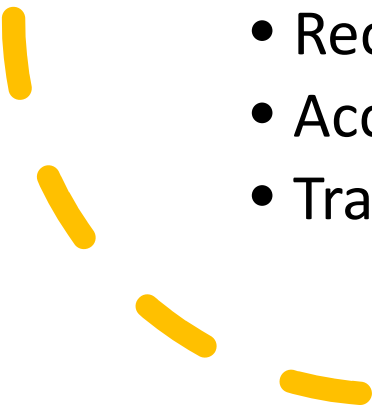
Law enforcement partners MEET most of the reform policies. Each of the policies that fail to meet the standard is currently being reviewed or revised.

Private security and its subcontractors currently FAILS TO MEET the reform policies. They've agreed to work with SSLE and update their policies.

Transit Security currently FAILS TO MEET the reform policies. They are being reviewed and revised will be completed within the next 90-days.




Reforming Policing: Transit Security

- System Security and Law Enforcement (SSLE) will work with the Office of Civil Rights, Executive Officer for Equity and Race, and the Transit Public Safety Advisory Committee (PSAC) to implement reform recommendations within the following categories for Transit Security:
 - Recruitment
 - Accountability
 - Training
- 



Reforming Policing: Contractors

- In the current contracts, Metro has the ability to remove law enforcement or private security officers who act in any manner on Metro's property that is inconsistent with Metro's values.
 - SSLE will partner with the Transit Public Safety Advisory Committee to develop the SOW for the next law enforcement and security contracts.
- 



Reallocation of Resources

- In the base of the multi-agency law enforcement contract, approximately \$12.5M was allocated for homeless outreach.
 - An additional \$19.5M has been allocated to increase outreach teams, reallocating existing teams to support “*Operation Shelter the Unsheltered*,” and creating the LBPD’s Quality of Life team.
 - The policing contract will need to be amended to increase its contract price; there is no available funding for reallocation of funds.
 - Approximately up to **\$3.5M** from the private security contract (RMI) can be reallocated to homeless outreach and services.
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