

## INTRADEPARTMENTAL CORRESPONDENCE

January 31, 2019  
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**BPC #19-0044**

**TO:** The Honorable Board of Police Commissioners

**FROM:** Inspector General, Police Commission

**SUBJECT: REVIEW OF GANG ENFORCEMENT DETAIL STOPS**

### **RECOMMENDED ACTION**

REVIEW and APPROVE the Office of the Inspector General Investigation.

### **DISCUSSION**

At the request of the Board of Police Commissioners (“BOPC” or “Commission”), the Office of the Inspector General (OIG) completed a review of vehicle, pedestrian, and bicycle stops conducted by Los Angeles Police Department (LAPD or Department) officers assigned to Gang Enforcement Details (GEDs). This represents the first of two reports that focus on proactive – or discretionary – stops by LAPD officers. The duties of officers assigned to GED revolve primarily around crime suppression and other proactive policing strategies, rather than responding to calls for service. The same may be said with regard to officers assigned to Metropolitan Division line platoons, whose discretionary stops of individuals will be the focus of the OIG’s forthcoming second report in this series.

This review specifically examined stops that included at least one black, Hispanic, or white male in order to allow for a comparison among these groups. In conducting these reviews, the OIG’s goal is to assess – based on the available information – the extent to which officers have a reasonable basis for the initial detention or contact with each person, as well as for each subsequent search or seizure conducted during a stop, and to evaluate officers’ articulation of that reasonable basis.

I am available to provide any information the Board may require.

**E-Copy – Original Signature on File with the Police Commission**

Mark P. Smith  
Inspector General  
Police Commission

Attachment

# LOS ANGELES POLICE COMMISSION

## REVIEW OF GANG ENFORCEMENT DETAIL STOPS



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

MARK P. SMITH  
Inspector General

February 5, 2019

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# OFFICE OF THE INSPECTOR GENERAL REVIEW OF GANG ENFORCEMENT DETAIL STOPS

## I. INTRODUCTION AND EXECUTIVE SUMMARY

At the request of the Board of Police Commissioners (“BOPC” or “Commission”), the Office of the Inspector General (OIG) completed a review of vehicle, pedestrian, and bicycle stops conducted by Los Angeles Police Department (LAPD or Department) officers assigned to Gang Enforcement Details (GEDs). This represents the first of two reports that focus on proactive – or discretionary – stops by LAPD officers. The duties of officers assigned to GED revolve primarily around crime suppression and other proactive policing strategies, rather than responding to calls for service. The same may be said with regard to officers assigned to Metropolitan Division line platoons, whose discretionary stops of individuals will be the focus of the OIG’s forthcoming second report in this series.

This review specifically examined stops that included at least one black, Hispanic, or white male in order to allow for a comparison among these groups.<sup>1</sup> In conducting these reviews, the OIG’s goal is to assess – based on the available information – the extent to which officers have a reasonable basis for the initial detention or contact with each person, as well as for each subsequent search or seizure conducted during a stop, and to evaluate officers’ articulation of that reasonable basis.

Although this is not the first time that the OIG has examined stops of individuals by officers, it differs from previous reviews in that this is the first instance for which each officer has been equipped with body-worn video. It also represents the first instance for which officers were required by California law to document the actions taken during each contact, as well as their justification for each detention and search.<sup>2</sup> As such, the OIG had significantly more information with which to conduct its review than was available in previous reports.

### A. Summary of Findings

Based on its review of a sample of 91 stops conducted by GED officers, encompassing 150 people contacted in total, the OIG determined that most of the detentions – about 85 percent – appeared reasonable and legally justified.<sup>3,4</sup> This was particularly true of vehicle stops, for which officers generally documented verifiable traffic or vehicle code violations as the reason for the stop. The OIG identified three stop incidents, however, that included at least one

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<sup>1</sup> The OIG selected a random sample from each category of single-race stops involving at least one black, Hispanic, or white male. For a full methodology and breakdown of persons stopped by GED units, see page 6.

<sup>2</sup> As described on page 4, AB 953 (2015), also known as the Racial and Identity Profiling Act (RIPA), requires officers to collect data on most types of detentions, as well as any consensual encounters that involve a search.

<sup>3</sup> For the purposes of this report, the term “stop” refers to an incident that may include one or more detentions, or to a consensual encounter that involves at least one search. One stop may therefore include contacts with multiple people.

<sup>4</sup> The OIG notes that the sampling methodology used here was not necessarily designed to yield a broad representation of *all* stops conducted by GED officers. Stops of some groups were excluded from the sample, including female-only stops or stops involving people of Middle Eastern/South Asian descent, while those of other groups may be over-represented or under-represented.

detention that appeared unreasonable based on the available information. The OIG also had concerns about the voluntary nature of three incidents that were documented as consensual encounters, each of which involved a search of one or more people and/or their property. In an additional eight cases, the OIG could not fully assess the reasonableness of the stop, generally due to limited available information about the facts underlying the detention(s).

The OIG also assessed whether each stop included one or more searches, ranging from a pat-down of a person's outer clothing to a search of a person's vehicle or property, and whether those searches appeared justified by the information provided. The OIG determined that approximately 41 percent of the 91 stops reviewed did not involve any type of search. Another 23 percent of stops involved one or more searches that appeared to be appropriate or reasonable under the circumstances, and in four percent of the stops the OIG could not verify or make a determination based on the information available. In the remaining 32 percent of stops, the OIG identified an issue with one or more of the searches conducted.

Some of the issues identified by the OIG involved cases in which the officers documented that the searched person had consented, but for which the associated video did not capture any apparent statement or indication of affirmative consent by that person. In other cases, the written justifications for searches provided by the involved officer did not appear to meet the appropriate legal standard or were missing altogether. The OIG additionally noted a concern with respect to a small number of searches conducted on the basis of a person's probation status, but for which there was no apparent attempt to determine whether the person had search conditions as a part of that status.

As detailed in the report, the OIG also noted a small number of other policy or procedural issues, ranging from accuracy of the stop data to proper activation of video cameras. Some of these issues, such as a lack of an explanation of the reason for a detention, or a failure to provide a business card, were related to the "procedural justice" aspect of the stop. The concept of procedural justice, which refers to how a person is treated during an encounter, was adopted by the Commission as a guiding value for the Department in May 2017, and it is an emerging focus area for OIG and Department reviews of officers' contacts with the public.<sup>5</sup> While the OIG found that officers were generally polite and courteous in the stops reviewed for this report, it also found that there was room for improvement in officers' communication about the actions they were taking.

## **B. Department Response**

In November 2018, while completing this report, the OIG met with the Department to discuss its preliminary findings and share examples of its concerns. The Department agreed with these concerns and, at the direction of the Chief of Police, moved swiftly to respond. Within a week of the meeting, the Department had begun to develop and plan targeted training days for all GED and Metropolitan Division line platoons, which were held in early January 2019. Other steps,

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<sup>5</sup> See "[Review of National Best Practices](#)," Office of the Inspector General, May 17, 2017, page 47.

detailed in the report, included Department-wide notices and bulletins reminding officers of Fourth Amendment principles relating to stops and consensual encounters, as well as a message from the Chief regarding the importance of accuracy in documentation.

It is important to note that it would have been difficult to identify many of the issues above prior to the deployment of body-worn video and the expansion of stop data collection, both of which were fully implemented in 2018. These new systems allowed for a much clearer picture of what actions officers are taking, their justification for those actions, and how they are communicating during these encounters. The OIG commends the Department for taking prompt steps, based on the information learned from these new systems, to set clear expectations and provide training designed to ensure that officers comply with Department policy and the law. The OIG has developed a set of additional recommendations designed to assist Department managers in identifying potential areas of concern and verifying compliance with these principles.

## **II. BACKGROUND**

The OIG’s review of GED stops touches upon three major areas of reform initiated as part of the 2001 Federal Consent Decree – the management of gang units, the collection of stop data, and the deployment of cameras to oversee stops.

Many of these reforms stemmed from the Rampart corruption scandal and subsequent findings regarding a lack of supervisory oversight of Department gang units at the time, known as CRASH units.<sup>6</sup> In a letter to the City of Los Angeles, the Department of Justice noted that it had identified a pattern or practice of misconduct that included “improper seizures of persons, including making police stops not based on reasonable suspicion [..., and] improper searches of persons and property with insufficient cause.” The letter also took pains to note, however, a belief that the majority of officers at the LAPD had not themselves “violated the constitutional rights of persons they serve and protect.”<sup>7</sup>

The sections below describe the relevant policies in each of these areas and how they related to the OIG’s review of GED stops.

### **A. Gang Enforcement Details**

Each of the 21 LAPD Areas has a Gang Enforcement Detail (GED), which is the Department’s “primary uniformed component focusing on gang members and associated crimes.”<sup>8</sup> According to Department materials, GED units are responsible for gathering intelligence, identifying patterns and monitoring activity related to gangs, and conducting crime suppression. As such, some of their assigned activities include:

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<sup>6</sup> The term CRASH stood for Community Resources Against Street Hoodlums.

<sup>7</sup> LAPD Notice of Investigation Letter, US Department of Justice, May 8, 2000.

<sup>8</sup> Special Order No. 7 (2004), “Gang Impact Teams – Established,” Los Angeles Police Department, February 25, 2004.

- Keeping a visible presence in communities affected by gangs and gang-related narcotics trafficking, and deploying to locations where gang crime is likely to occur;
- Monitoring parks, schools, and “other locations where gang members congregate;”
- Collecting and maintaining gang intelligence;
- Developing and maintaining relationships with other government and community organizations; and
- Participating in meetings related to gangs and gang crime.

Selection criteria and other policies related to the management of GED units were set, in large part, by the Consent Decree. Based on these policies, officers must undergo an application process to join GED and must submit to financial disclosure.<sup>9</sup> Officers are generally limited to a tour of three years in GED (with a possible extension of up to two additional years), after which they must cycle out for at least a year. All GED units in the field must be in uniform and drive a marked car; they are also required to work out of a station and are restricted from conducting certain activities, such as holding arrestees or interviewing witnesses, off-site.<sup>10</sup>

There are a little over 300 officers assigned to GED units across the Department at any given time. The OIG selected its sample from stops conducted by these officers.

### **B. Stop Data Collection and Assembly Bill 953**

Assembly Bill (AB) 953, also known as the Racial and Identity Profiling Act of 2015, or RIPA, is a California State law mandating, among other things, that law enforcement agencies collect and submit to the State detailed data on most detentions conducted by their officers. They must also document consensual encounters involving a search.<sup>11</sup> As an agency with 1,000 or more officers, the LAPD was required to begin collecting this data by July 1, 2018.

Unlike many other agencies, the Department was already collecting some stop data and had been doing so since 2004. This was again the result of the Consent Decree, which required the collection of detailed data as part of its package of reforms. In 2009, however, the data to be collected was substantially reduced to encompass only basic data about each incident – including the number of persons stopped by race/ethnicity and gender, a checkbox indicating whether any type of “post-stop activity” had taken place, and fields for associated booking or other reference numbers.

The Department calls these reports Automated Field Data Reports (AFDRs) and maintains a stop database that allows supervisors to conduct basic analyses of the number, types, and locations of

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<sup>9</sup> LAPD Manual 3/381, “Confidential Financial Disclosure Policy and Procedures for Gang Enforcement and Narcotics Enforcement Personnel.”

<sup>10</sup> For additional details about policies governing GED units, see LAPD Manual 3/763.75, Gang Enforcement Detail – Qualification and Selection Requirements,” and Special Order No. 7 (2004), “Gang Impact Teams – Established,” Los Angeles Police Department, February 25, 2004.

<sup>11</sup> The law exempts certain types of detentions and searches. For a full description, see the Stop Data Regulations promulgated by the Office of the Attorney General at <https://oag.ca.gov/ab953/regulations>.

stops being conducted by their officers. The possible applications of this data for the purposes of identifying issues or trends have, until recently, been fairly limited. Moreover, as noted in previous OIG reports, neither the AFDR nor any other report required officers to provide a detailed accounting of the actions taken during a stop, or of the associated justifications. This made it difficult to fully audit or review the decisions being made by officers.

AB 953 required the Department to again expand the circumstances and amount of data that officers must record when stopping or searching individuals. The new state-mandated system requires the entry of up to 43 data elements for each individual detained or searched, up from 11 in the pre-AB 953 version of the AFDR.<sup>12</sup>

The information collected in the AFDR system formed the basis for the OIG's statistical overview and its selection of stops for review. OIG reviewers also used the data entered by officers as the primary source of information about each stop. These entries were then compared with what was captured by the available video recordings of the stop.

### **C. Body-Worn and Digital In-Car Video**

As of February 2018, both Body-Worn Video (BWV) and the Digital In-Car Video (DICV) systems have been deployed in all geographic Areas and traffic divisions, as well as Metropolitan Division. This is the culmination of a process that began in 2009, when the first DICV was implemented as part of a commitment made by the Department in transitioning out of the Consent Decree.<sup>13</sup> At that time, it was believed that the presence and review of video would play a critical role in the Department's efforts to prevent biased policing during detentions.<sup>14</sup>

Policies relating to the circumstances under which these devices should be activated differ somewhat, but policies relating to both technologies generally require activation of the cameras for all motor vehicle and pedestrian stops.<sup>15</sup> The policy on BWV cameras additionally specifies that this includes officer-initiated consensual encounters.

The BWV policy requires that the cameras be turned on "prior to the initiation" of the relevant investigative or enforcement activity, while the DICV policy requires that this occur "during the initiation" of such activity.<sup>16</sup> As the cameras are always rolling once they are powered on, both systems provide a video-only (no audio) "buffer" at the beginning of each recorded video, which

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<sup>12</sup> Special Order No. 11 (2018), "Field Data Reports/Completion and Tracking," June 26, 2018.

<sup>13</sup> See "Continuation of Measures to Prohibit Biased Policing," Consent Decree Transition Agreement, July 17, 2009, page 8.

<sup>14</sup> "Office of the Independent Monitor: Final Report," Office of the Independent Monitor of the Los Angeles Police Department, June 11, 2009, page 74.

<sup>15</sup> LAPD Manual 3/579.13, "Digital In-Car Video System (DICVS) Use and Deployment" and LAPD Manual 3/579.15, "Objectives of Body Worn Video."

<sup>16</sup> In a previous review of the DICV system, the OIG worked with the Department to develop policy language similar to that used in the BWV policy. The recommended changes have not yet been implemented, however. See "[Review of the Digital In-Car Video System](#)," Office of the Inspector General, March 31, 2015, page 14.

shows footage automatically captured by the camera prior to activation of the recording function. This buffer footage may allow reviewers to see what was recorded in the moments leading up to the incident; it is therefore quite helpful in instances where officers activate their video recording late, or for the purposes of seeing what officers observed prior to their decision to initiate a stop. The buffer is two minutes long in BWV clips and one minute long in DICV clips.<sup>17</sup>

The OIG has access to all stored BWV and DICV footage, which it used to conduct its review. For each stop, the OIG reviewed all available video in order to compare it to the data entered into the AFDR system as well as other available documentation, and to conduct an overall assessment of officers' justification for each stop and search.

As part of its ongoing responsibility to audit the use of both devices, the OIG also evaluated whether officers complied with relevant policy in activating each camera and in keeping it turned on until the stop was complete. As discussed throughout this report, late activations or non-activations sometimes impacted the OIG's ability to fully evaluate the relevant stop. The results of that assessment are found on page 17.

### III. METHODOLOGY

#### A. Population and Sample Selection

Using the AFDR system, the OIG selected its sample from the population of all stops reported by GED officers during the months of July and August of 2018. During that time, GED officers reported a total of 8,246 stops, encompassing 11,673 people stopped.<sup>18</sup> The full breakdown of people stopped by reported race/ethnicity and gender is listed below.

Total People Stopped by Race/Ethnicity and Gender – GED Stops Only						
July – August 2018						
Race/Ethnicity	Female	Male	Gender Non-Conforming	Transgender Female	Transgender Male	Total
Asian	11	51	-	-	-	62
Black/African American	559	4,017	-	1	4	4,581
Hispanic/Latino(a)	752	5,521	-	1	3	6,277
Middle Eastern/S. Asian	13	120	-	-	-	133
Multi-Ethnic	2	34	1	-	1	38
Native American	2	30	-	-	-	32
Pacific Islander	7	29	-	-	-	36
White	135	378	-	-	1	514
<b>Grand Total</b>	<b>1,481</b>	<b>10,180</b>	<b>1</b>	<b>2</b>	<b>9</b>	<b>11,673</b>

<sup>17</sup> DICV clips also include a 1-minute no-audio buffer following an officer's de-activation of the recording function of the camera.

<sup>18</sup> GED officers were identified by their reported unit designation. Note that this number also includes consensual encounters involving a search. Overall, Department personnel recorded a total of 110,299 stops during this period, encompassing 128,530 people stopped.

The OIG's review in this instance focused not on the overall prevalence of stops by race/ethnicity, but on officers' adherence to relevant laws and policies as they conducted these stops. It is acknowledged that there are some substantial disproportionalities in the data regarding GED stops, and that these may be impacted by multiple factors. One factor may be, for example, the demographic makeup of the gangs that are the particular focus of GED enforcement activities. Another may be the greater number of GED officers deployed in some geographic areas with a large proportion of communities of color due to higher reported levels of violent crime. Even if such factors play a role in the demographics of those individuals who are stopped, however, the OIG continues to recommend that the Department work to identify a process for evaluating its stop data to identify potential areas of concern, including areas of possible disparate treatment.

For its review, the OIG focused on stops of males belonging to three racial/ethnic groups – black, Hispanic, and white. As shown in the table above, of people recorded as stopped by GED units, black males made up 34 percent, Hispanic males made up 47 percent, and white males made up three percent. The OIG isolated groups of stops that included at least one male from the selected racial/ethnic category, but no people from the other two racial/ethnic categories.<sup>19</sup> For example, a stop in the “Black Male” group might contain additional black males and/or additional black females, but would not include any Hispanic or white males or females. The population of stops meeting these characteristics was as follows:

- 2,805 stops (encompassing 4,080 people reported stopped) that included at least one black male and no persons from the other racial/ethnic categories
- 4,200 stops (encompassing 5,704 people reported stopped) that included at least one Hispanic male and no persons from the other racial/ethnic categories
- 299 stops (encompassing 340 people reported stopped) that included at least one white male and no persons from the other racial/ethnic categories

A random sample was then selected from each of these groups to allow for comparisons across them. The OIG used a one-tail test with a 95 percent confidence level, a six percent expected error rate, and a seven percent plus precision to select its sample from each group. This yielded a sample of 31 stops from the “Black Male” group, 31 stops from the “Hispanic Male” group, and 29 stops from the “White Male” group, for a total of 91 stops.<sup>20</sup> Approximately 58 percent of these stops were motor vehicle stops, 31 percent were pedestrian stops, and 11 percent were bicycle stops.

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<sup>19</sup> Stops that did not fall into one of these categories were excluded from the review in an effort to most effectively identify any possible differences among the three selected groups.

<sup>20</sup> Because OIG's focus was on proactive stops, any detention that was found to have stemmed from a radio call or a planned operation was excluded from the review and replaced with another case.

It is important to note that, due to the sampling methodology, the combined sample should not be broadly extrapolated to all stops conducted by GED officers.<sup>21</sup> This is because stops of certain groups were excluded from the sample, while those of other groups may be over-represented or under-represented based on their proportion of the overall population.

### Scope of Review

For each case in the sample, the OIG reviewed all available BWV and DICV footage to verify the data documented by officers on their AFDRs as well as their Computer Aided Dispatch (CAD) Summaries.<sup>22</sup> The OIG also reviewed any other available reports related to the stop, such as arrest reports or crime bulletins. Finally, the OIG searched the Complaint Management System to determine whether any of the stops resulted in a complaint of misconduct. Based on this review, it appears that no complaints were filed as a result of these specific incidents.

This combined data was used to assess each stop for compliance with relevant policies and legal standards. OIG reviewers evaluated the officers' stated basis for each detention or encounter, as well as for each search that was conducted during the incident. They also assessed compliance with other related policies, such as those mandating the activation of BWV and DICV cameras, the provision of a business card following a stop, the issuance of a required disclosure statement prior to requesting a person's Social Security Number, and other issues.

## **IV. FINDINGS**

### **A. Basis for the Stop or Detention**

The law and LAPD policy require that a detention, which is a temporary investigative stop during which the person who is the subject of the stop is not free to leave, must be supported by probable cause or reasonable suspicion that the person is connected to criminal activity that has taken place or is about to take place. Officers may also detain someone if they have knowledge that the person is subject to search conditions as a term of parole, probation, or other supervision. In those instances where an officer does not have a sufficient factual basis to form reasonable suspicion or probable cause, it is permissible to conduct a consensual encounter with the person. In such instances, however, the encounter must be conducted in such a way that a reasonable

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<sup>21</sup> With respect to the race/ethnicity of the GED officers making the stops in the sample, approximately 57 percent of officers were listed as Hispanic/Latino, 31 percent were white, 8 percent were Asian/Pacific Islander, and 4 percent were black/African American. Approximately 92 percent were listed as male, while the other 8 percent were listed as female. (Note that officers conducting multiple stops were counted multiple times.)

<sup>22</sup> The CAD Summary is each unit's contemporaneous electronic log, which replaced the handwritten Daily Field Activity Report (DFAR) in 2015. In order to close out or "dispo" each stop or other activity, officers write a brief text description of what occurred as well as the result. This is separate from the AFDR data, which is more structured and collects detailed data about each stop. AFDR data must generally be entered by the end of an officer's shift.

person would feel free to refuse to talk to the officer and to walk away or otherwise end the encounter.<sup>23</sup>

Per AB 953, officers must document the basis for the detention of each person by categorizing the justification (e.g., reasonable suspicion or knowledge of an outstanding warrant), entering the code section the person is suspected of violating, and providing a narrative that describes a more detailed basis for the stop.<sup>24</sup> They must also document those cases where they conduct a consensual encounter that involves any kind of search.

Based on its review of AFDR data and the accompanying video footage, the OIG determined that the sample of 91 stop incidents included a total of 150 persons who were detained or contacted for a consensual encounter. This total includes 24 people whose detentions were not recorded in the AFDR data, but who were identified by the OIG as having been detained based on the video review.

The OIG found that 77 of the 91 stops (approximately 85 percent) appeared reasonable and justified based on the information provided. These reasons included, for example, officers' observation of a traffic or equipment violation or their knowledge that the stopped person was wanted or on parole. The OIG was also able to confirm these facts in the majority of cases by watching the video, hearing the person admit to the violation, and/or reviewing other associated documentation.

In eight instances (nine percent of stops), the OIG was unable to make a determination about the reasonableness of the detention due to a lack of detail in the corresponding documentation and/or the associated video footage. This included, for example, the detention of four people for a stop simply characterized as a "narco investigation" or the stop of several people for a "firearms investigation." Based on the limited information provided and the relevant video, it was difficult to determine whether these detentions were justified.

In the remaining 6 cases (7 percent), encompassing 15 people, the OIG found that the justification for the stop provided by the officers did not appear to be reasonable or was otherwise problematic, as discussed in the following sections.

### *1. Insufficient Basis Provided*

The OIG identified three cases, involving 10 people, where the reason for the stop provided by the officers did not appear to constitute reasonable suspicion of a crime.<sup>25</sup> This included, for

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<sup>23</sup> See "Legal Contacts with the Public." Training Bulletin Volume XXXVIII, Issue 1, Los Angeles Police Department, April 2006.

<sup>24</sup> Passengers in a vehicle that is stopped for a vehicle code violation do not need to be recorded unless officers take post-stop action involving those passengers such as removing them from the vehicle or conducting a search.

<sup>25</sup> The OIG also referred to the Department three additional detentions or attempted detentions, identified in the course of the review but not included in the OIG's sample, that either were not logged into the AFDR system or otherwise appeared to lack a reasonable basis.

example, a case where two men were detained and searched based on the reported suspicion that they were trespassing. The involved officers also documented that they suspected the men of “loitering,” a violation that prohibits a person from “delay[ing] or linger[ing] without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.”<sup>26</sup> The video recording of this stop showed, however, that the men were located on a sidewalk, sitting on a planter of an apartment building, which by itself does not appear to meet the elements of either criminal trespassing or loitering. The officers did not articulate any basis for believing that the men were trespassing, nor did they seem to investigate a possible trespass beyond asking the men where they lived.

In another instance, the officers contacted three men, reportedly due to a suspicion that they were drinking alcohol in public. However, two of the men were drinking from fast-food soda cups, and a third was drinking from a plastic water bottle. The officers did not offer additional facts to support a suspicion that these drinks contained alcohol, as opposed to any other non-alcoholic beverage. Moreover, the documentation stated that the “bottles [were] not opened,” which did not appear consistent with what occurred on the video.<sup>27</sup>

## 2. *Consensual Encounters*

The OIG identified concerns about three contacts, involving five people, that were reported to be consensual encounters, all of which resulted in a pat-down or other search.<sup>28</sup> In one of these cases, the video showed that the encounter was clearly not consensual based on the directions given by the officers. In the other two cases, the officers activated their BWVs after the encounter had already started and a search had been initiated, making it difficult to know whether the contact was truly consensual. Some of the body language and visible movements by the officers (for example, beckoning a person or taking hold of one of their arms to lead them to be searched) raised questions about the consensual nature of the encounter, as did some of the statements made on the video.

The above cases included one instance where two juveniles were patted down and had their property searched, reportedly during a consensual encounter, because the officers suspected they had weapons. These searches – which were not documented as consensual – occurred at the initiation of the encounter, and they therefore bring the overall nature of the encounter into question.

The lack of recorded audio at the initiation of some of these reportedly consensual contacts (due to late activation of a BWV and/or the DICV) was of particular concern to the OIG, as this

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<sup>26</sup> See Penal Code Section 647(h).

<sup>27</sup> Based on the OIG’s review of the video, this contact appeared to possibly constitute a consensual encounter, which would have been permissible under the circumstances. However, the officers documented it as a stop based on reasonable suspicion.

<sup>28</sup> In the course of this project, the OIG also identified additional reported consensual encounters, outside of the review sample, that appeared to actually be detentions based on statements or actions made by the involved officers. These were referred to the Department for review.

prevented the verification of whether a stop was in fact consensual as it had been reported. It was noted that some of the officers included in the sample documented multiple such consensual encounters – all with late BWV and/or DICV activations – over a period of one or more days.

## **B. Basis for the Search**

Officers may not automatically conduct a pat-down or other search of a person simply because they have been detained, but they may do so if they have additional facts that support such an action. According to the Department’s materials, a pat-down must be based on “*specific and articulable facts* that cause an officer to *reasonably suspect* a detainee *might be armed or dangerous*.”<sup>29</sup> Full searches of a person or their property, on the other hand, must generally be justified by probable cause, a higher level of suspicion. Officers may also conduct a search if a person has search terms as part of their supervision status – for example, if the person is on parole or probation – or if they receive voluntary consent from a person to do so.

AB 953 requires that officers record whether they have performed a search of either a person or their property. Officers are further mandated to provide the basis for the search(es) both by selecting a general category (consent, officer safety, etc.) and by including a more specific narrative. For example, they may not simply state that a pat-down was due to “officer safety” but rather must include additional detail to justify the pat-down. The system that records stop data is set up to require only one answer per person searched, even if multiple searches – with multiple justifications – are conducted.

The OIG’s review found that, of the 91 stops analyzed, 37 cases (41 percent) did not involve any kind of search.<sup>30</sup> An additional 21 stops (23 percent) included one or more searches that appeared reasonable based on the video and the information provided by the involved officers. Some of the justifications provided by officers included that the person was on parole or probation with search conditions,<sup>31</sup> that the person was armed with a weapon, or that the person consented to a search. In four cases (four percent), the OIG could not fully assess the associated searches based on the information provided.

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<sup>29</sup> “Personal Searches – Part I, The Pat Down Search,” Training Bulletin Volume XXXVI, Issue 1, Los Angeles Police Department, February 2004. Emphasis in original.

<sup>30</sup> The OIG determined that 54 stops, (59 percent) involved at least one search, and that 85 people were subjected to one or more searches. Overall, 78 people were subjected to a pat-down, 38 people were subjected to a search of their person (including having their clothing pulled up), and 45 people had their property searched. Each type of search of each person was evaluated separately. One review could include three documented searches, for example, of a person who was patted down, had their shirt lifted up, and had their bag searched.

<sup>31</sup> In instances where the officers indicated that the person was already known to be on probation, the OIG assumed that the officers also knew that the person had search conditions, even if this was not clearly articulated. It would be beneficial to clearly indicate such knowledge on the AFDR form, however. In most cases, the OIG did not have sufficient information about the person’s identity to independently confirm their supervision status.

In the remaining 29 stops (32 percent) the OIG determined that at least one search justification provided by the officers did not appear accurate or was otherwise of concern, as described below.

*1. Lack of Affirmative Consent*

Officers documented that a total of 17 stops involved searches that were justified by the consent of the person being searched, and the OIG was able to verify that consent was received by officers in seven cases. In the remaining 10 stops (encompassing 15 people), no consent was seen or heard on the recording of the incident prior to at least one of the searches being conducted. For example, the OIG noted multiple cases where officers asked a person something along the lines of, “You don’t have any weapons on you, do you?” They then proceeded to pat-down or search the person without actually asking whether they had consent to do so. In other instances, no such questions were asked at all prior to the search.

The OIG noted that in two of the cases above, a person did provide consent to be searched, but this occurred after a search had already been conducted by officers. There were also two cases where individuals ultimately gave officers consent for a search, but only after the officers repeatedly insisted that they do so, indicated that they intended to conduct the search either way, and made threats to impound a car or make an arrest. Such consent therefore did not appear to be genuinely voluntary, but rather the result of the individuals feeling that they were required to give it.

Lastly, the OIG identified two additional cases where it could not verify whether a search was consensual due to a lack of audio coverage of the entire stop. As noted in the earlier section on consensual encounters, however, the OIG did note some indications – such as gestures or statements – that brought the purported consent into question.

*2. Insufficient Articulation*

The OIG identified nine stops (involving 21 people) where the written basis provided for at least one associated search did not appear to meet the relevant standard. This included, for example, a case where seven men were subjected to a pat-down – and one to a search of his person and property – purportedly because two of the seven were on probation. While officers also stated that the men were gang members “loitering” in an apartment courtyard, these factors do not support a pat-down or other search of the five men who were not on probation.

In another case already mentioned, officers stated that they patted down and/or searched two juveniles based on the following: “gang members in gang area known to carry weapons.” (The OIG notes that one of the juveniles, whom the officers did not appear to know, stated that he was not in a gang.) This justification is overly general and does not include a particularized set of facts to justify the searches as reasonable. The OIG additionally noted that these officers provided identical or nearly identical justifications for searches in other stops they made that day as well – for a total of 12 people searched – giving rise to a concern about canned language.

### *3. No Basis Documented*

In four stops (involving four people), the officers did not document at least one search or otherwise provide a justification for it. For each of these searches, no basis to justify it was apparent from the video. This included, for example, the pat-down of a man who was being detained with a friend for standing in the right-hand turn lane of a busy street while holding an electronic scooter. The pat-down was not documented, nor was there any apparent reason to conduct the search during such a low-level detention.<sup>32</sup>

### *4. Probation Searches*

One of the most common reasons a person was searched was that they were on parole, probation, or Post-Release Community Supervision (PRCS or “AB109”). The majority of these searches appeared reasonable because one of the conditions of the person’s supervision status was that they were subject to a warrantless search. The OIG notes, however, that while all people who are on parole or PRCS are subject to search as a condition of their release, this is not necessarily true of all those who are on probation. Per the law and LAPD policy, when a person is on probation, officers must specifically ascertain that they have search conditions – and understand the scope of those conditions – prior to conducting a search.<sup>33</sup> This can be done in multiple ways, including by asking the person.

In 14 of the 20 stops involving a search based on a person’s supervision status, the search appeared appropriate because the officers either indicated that they were aware of the person’s search conditions or because they verified those conditions prior to conducting the search. The OIG noted three incidents, however, where officers conducted a search after learning that the person was on probation, but they did so without appearing to determine whether the person had search conditions. In some cases, officers asked the person what they were on probation for, or discussed whether the person was on summary or formal probation. None of these factors, however, is sufficient to determine the existence, or the scope, of any search conditions.

The OIG also identified three instances where the officers did appear to verify that a person had search terms, but at least one search occurred prior to them doing so.

Finally, the OIG noted that some officers appeared to confuse PRCS and probation, possibly because both of them involve supervision by a probation officer. This may add to the confusion about whether a person necessarily has search conditions as a result of their probation. The

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<sup>32</sup> The OIG also noted two additional cases where a search was conducted, but not documented, and the involved officers provided a reasonable justification for the search on the video recording of the incident. The OIG considered these to be reasonable searches based on those statements, despite the lack of documentation.

<sup>33</sup> According to a Department Legal Bulletin, it is necessary for LAPD officers to determine, prior to conducting a warrantless probation search, whether there is reasonable suspicion to believe a search will reveal evidence of criminal activity or a probation violation. Alternatively, they may determine that all of the following conditions are true: the person has violated the terms of their probation, their probation includes search conditions, and the place or item to be searched is listed as a searchable item. “Parole and Probation Search Issues,” Legal Bulletin Volume 33, Issue 3, Los Angeles Police Department, August 12, 2009.

Department should ensure that officers are able to clearly differentiate between, and properly document, the type of supervision that the person being searched is subject to.

### **C. Principles of Procedural Justice**

The OIG also reviewed the procedural justice component of the stops in its sample. The term “procedural justice” is based on the premise that a community member’s treatment during an encounter has a greater impact on perception than does the outcome of that encounter.

As described by researchers, there are four components to procedural justice:

- Treating people with dignity and respect.
- Giving individuals a voice, or opportunity to explain their perspective, during encounters.
- Being neutral and transparent in decision-making, indicating that rules are applied consistently and fairly.
- Conveying trustworthy or well-intentioned motives, in that the person can understand why the action is being taken. Research has found that “[p]eople are more likely to obey the law when they believe that those who are enforcing it have the right – the legitimate authority – to tell them what to do.”<sup>34</sup>

#### Impact on Community Trust

The issues of legitimacy and trust – particularly in communities of color – are critical components in the evaluation of law enforcement stops conducted by the LAPD. A recent community survey of 1,602 Los Angeles residents, commissioned by the Department, found that about 38 percent of those surveyed disagreed with the statement that the police treat people of all races fairly, and 24 percent indicated that they believe the police stop and frisk too many people.<sup>35</sup> These findings were noticeably divided by the race of the survey’s respondents, with black respondents less likely to say that people of all races were treated fairly and more likely to say that the police stop and frisk too many people. Another question that was divided by race was that of police honesty and trustworthiness. Although 73 percent of all respondents agreed that officers are honest and trustworthy, only 47 percent of black respondents did so.

Previous studies of the LAPD have found that the Department’s stop practices had a negative impact on community trust. For example, in 1992 the Christopher Commission referenced witnesses complaining of “being stopped for no apparent reason or for one that appears on the surface to be a pretext.” The report went on to note that routine stops of young African-American and Latino males, seemingly without ‘probable cause’ or ‘reasonable suspicion’ ... breeds resentment and hostility among those whose who are its targets” as well as minority

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<sup>34</sup> Final Report of the President’s Task Force on 21st Century Policing,” President’s Task Force on 21st Century Policing, 2015, page 9.

<sup>35</sup>“Perceptions of Safety and Police in Los Angeles: Results of the 2018 Survey of Los Angeles Residents,” Justice & Security Strategies, Inc. and Hart Research Associates, June 27<sup>th</sup>, 2018. Available at [http://www.lapdpolicecom.lacity.org/071718/BPC\\_18-0244.pdf](http://www.lapdpolicecom.lacity.org/071718/BPC_18-0244.pdf).

communities in general.<sup>36</sup> In 2006, the Blue Ribbon Rampart Review Panel likewise concluded that, under proactive policing, the cost to community trust was high, and in the minds of many residents, the Department “[did] not distinguish between the few dangerous criminals and the majority of the community who are just trying to survive.”<sup>37</sup>

Since the time of those reports, the Department has made many strides in improving community trust and changing its stop and search practices. Because of the emerging significance of procedural justice as a national best practice in building trust, the Commission recently took the step of directing the Department to explicitly incorporate its principles into all aspects of LAPD processes and practices. As such, the OIG has begun incorporating, where appropriate, an analysis of procedural justice principles into its reviews and audits.

In reviewing video footage of the selected GED stops, the OIG generally found that officers were polite and courteous in dealing with the people they detained, and that few of the incidents became heated or escalated. Along with the earlier concerns about the basis for certain stops and searches, however, the OIG also noted some cases where officers’ communications about what was taking place – in keeping with the principles of procedural justice – could have been improved in two main areas.

*1. Explanation of the Reason for the Stop and Related Searches*

LAPD policy requires that “when any person detained [...] is subsequently released without being booked or cited, the responsible officer shall explain the reason for the detention.”<sup>38</sup> The OIG tracked the extent to which this occurred during the contacts with the 132 people from the sample who were reported to be detained, but were neither arrested nor cited. In about half of the cases, the officers stated the reason for the stop promptly, and they did so near the beginning of the stop. In another quarter of cases, the officers did provide a reason at some point, but it was either later during the incident, or it did not match what was stated on the written report. In the remaining quarter of cases, the officer was not heard providing an explanation for the stop at all.

The Department does not have a specific policy requiring officers to provide a reason for additional actions taken during stops – such as searches. The OIG noted a significant number of cases where a person being detained was told to stand up against a wall, and the person was subsequently handcuffed, patted down, or otherwise searched without officers providing an explanation for these actions.

The lack of an explanation of what is taking place may contribute to a perception that officers are stopping and searching members of the community for no reason, as the result of racial profiling, or due to some other another prohibited basis. Providing explanations, as promptly as is feasible,

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<sup>36</sup> “Report of the Independent Commission on the Los Angeles Police Department,” 1992, page 77.

<sup>37</sup> “Rampart Reconsidered: The Road Ahead,” The Blue Ribbon Rampart Review Panel, 2006, page 19.

<sup>38</sup> LAPD Manual 4/296.01 “Business Cards – Detainee Released Without Being Booked or Cited.”

would therefore be beneficial for a number of reasons including mitigating a sense that the action is arbitrary and ensuring that officers can contemporaneously articulate the basis for the action. Doing so would also be consistent with a recommendation of the President’s Task Force on 21<sup>st</sup> Century Policing, which states that “policies should require officers to state the reason for the stop and the reason for the search if one is conducted.”<sup>39</sup>

## *2. Providing a Business Card*

Department policy also mandates that, in all instances where officers are required to fill out an AFDR for a person who is not booked or cited, they shall provide the person with a Department business card that shall include the officers’ name and division of assignment, as well as the “date and time of the stop, detention, or search and the last four digits of the related incident number.”<sup>40</sup>

This requirement has been discussed in two previous OIG reports, which noted that the practice of providing a business card did not appear to be occurring consistently. In the most recent report, the OIG noted that this policy was also in keeping with the recommendations made by the President’s Task Force on 21<sup>st</sup> Century Policing in an effort to build community trust. Despite previous efforts by the Department to remind all Bureau commanding officers of the requirement, during this review the OIG again found that that in all of the detentions where the detainee was released, no business cards were provided by GED officers.

## **D. Other Related Policies**

### *1. AFDR Accuracy*

As noted in previous sections of the report, the OIG identified a number of inaccuracies or compliance issues in the entry of AFDR data, the parameters of which are set by AB 953 and its associated regulations. Issues noted included, for example, officers not recording each person who was stopped or subjected to post-stop actions, such as being removed from a car or searched, or not entering other specific actions taken during the stop.

While it is no doubt important that this data, which is mandated by State law, be accurate, the OIG recognizes that the study period for this report – July and August 2018 – represents the first two months of the law’s implementation. Given the complexity of the new law, some errors and omissions are to be expected and were not highlighted in this report.

The law itself requires that each agency have a process to audit the data and ensure that it is accurate and complete. The OIG notes that this area is currently subject to a two-year audit plan

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<sup>39</sup> See Recommendation 2.11 in “Final Report of the President’s Task Force on 21st Century Policing,” President’s Task Force on 21st Century Policing, 2015. Available at [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

<sup>40</sup> See LAPD Manual Sections 4/202.02, “Field Data Reports/Completion and Tracking,” and 4/296.01, “Business Cards – Detainee Released Without Being Booked or Cited.”

developed by the Department’s Audit Division, which should help to verify that officers are properly understanding the regulations and accurately and completely entering the required data.

*2. Activation of Body-Worn and In-Car Video*

As noted earlier, officers are required to activate both their BWV and DICV cameras prior to or during the initiation of each stop. They must also activate BWV cameras prior to the initiation of a consensual encounter. In each stop assessed by the OIG, two officers were listed in the AFDR as having conducted the stop. They were thus both required to activate their own BWV and ensure that the DICV was activated, if feasible. The results of the OIG’s review of camera activations are below.

<b>Video Activation Assessment - Results</b>	<b>BWV</b>	<b>DICV<sup>41</sup></b>
Total Required Activations	182	88 <sup>42</sup>
On-Time Activations	154 (85%)	54 (61%)
Late Activations – with Justification	1 (1%)	1 (1%)
Late Activations – without Justification	25 (14%)	8 (9%)
No Activation - with Justification	-	2 (2%)
No Activation - without Justification	2 (1%)	23(26%)

The OIG noted that in all of the 91 stops reviewed, at least one of the involved officers’ BWV cameras was activated. In two instances, however, the other involved officer did not appear to activate his or her camera. In nine instances, both officers activated their BWVs late, and in an additional seven cases, one officer activated his/her BWV late while the other activated it on time. (Additionally, in one of the cases where one officer did not activate the BWV camera at all, the second officer activated the BWV late.) With two exceptions, officers activating their devices late did not document a reason.

There was a much lower rate of activation of the DICV, particularly during pedestrian stops. Overall, the DICV system was not activated at all in about one-fourth of all stops. The OIG notes that while BWV often provides a more robust picture of what occurred during a stop, DICV footage can often be important in determining what officers observe leading up to the stop.

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<sup>41</sup> Due to rounding, percentages may not add up to 100.

<sup>42</sup> Does not include the three stops listed as consensual encounters with a search. Although the BWV policy clearly indicates that such contacts should result in the camera being activated, the DICV policy is less clear.

### 3. *Social Security Number Disclosure*

Federal law<sup>43</sup> and Department policy require that, when a detainee's Social Security number is requested, the following disclosure statement shall be made:

*Federal law requires that you be informed, when asked for your Social Security number, that it must be provided for use in identification. Authority for requiring this information is based upon field interview procedures operational prior to January 1, 1975.*

The policy additionally states that, if it is impractical to issue it before the Social Security number has been obtained, this statement may be given after.<sup>44</sup>

The OIG noted that seven (5%) out of the 150 people contacted were asked to provide their Social Security Number but were not issued the required disclosure. The Department should ensure that officers are reminded of this requirement and that they comply with it.

## **V. COMPARISONS ACROSS GROUPS**

As part of its analysis, the OIG also conducted some basic comparisons across groups. In presenting these findings, the OIG emphasizes that the review sample was relatively small and, due to the sampling strategy of isolating three groups, is not broadly representative of all stops conducted by GED officers. It is acknowledged that dividing these cases into smaller categories, as shown in the tables below, also narrows the numbers and may limit their applicability to all stops in a given category. The goals of the OIG's report, once again, were to qualitatively assess the extent to which officers had a reasonable basis for their initial detention or contact with a person, as well as for each subsequent search or seizure conducted during a stop, to evaluate officers' articulation of that reasonable basis, and to recommend measures for improving those areas where problems were identified.

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<sup>43</sup> See the Federal Privacy Act of 1974, Section 7(b): "Any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

<sup>44</sup> LAPD Manual4/ 202.07, "Federal Privacy Act - Social Security Number Disclosure Statement During Field Detention."

Sample Stops by Area of Assignment						
	Total Number of Stops <sup>45</sup>		Type of Stop		Number People in Stop	
Area	Total Stops <sup>46</sup>	Stops in Sample	Stop Only	Stop with Search(es)	One Stopped	Multiple Stopped
77th Street	1,105	17	1	16	6	11
Southeast	1,147	12	2	10	4	8
Newton	1,403	9	2	7	5	4
Topanga	158	8	4	4	5	3
Hollenbeck	854	7	4	3	7	-
Pacific	194	6	5	1	4	2
Central	430	5	-	5	5	-
Mission	141	4	3	1	4	-
Southwest	488	4	3	1	3	1
West Valley	193	4	3	1	4	-
Devonshire	70	3	1	2	3	-
West LA	127	3	3	-	3	-
Harbor	379	2	-	2	1	1
Hollywood	193	2	2	-	2	-
Rampart	309	2	1	1	-	2
North Hollywood	71	1	1	-	1	-
Van Nuys	188	1	1	-	1	-
Wilshire	236	1	1	-	1	-
Foothill	175	-	-	-	-	-
Northeast	155	-	-	-	-	-
Olympic	230	-	-	-	-	-
<b>Total</b>	<b>8,246</b>	<b>91</b>	<b>37</b>	<b>54</b>	<b>59</b>	<b>32</b>

The chart above shows the overall breakdown of GED stops – both in the general population and in the OIG sample – by the involved officers’ Area of assignment. When looking at the racial/ethnic makeup of the stops included in the sample, the OIG noted that 77<sup>th</sup> and Southeast Areas (South Bureau) had the largest proportions of stops involving black males, Newton and Hollenbeck (Central Bureau) had the largest proportions of stops involving Hispanic males, and Topanga and West Valley Areas (Valley Bureau) had the largest proportions of stops involving white males.

<sup>45</sup> Refers to number of stop incidents rather than people stopped.

<sup>46</sup> Includes all stops conducted regardless of race/ethnicity or gender.

Sample Stops by Area and Sampling Group <sup>47</sup>								
Area	Black Male Group		Hispanic Male Group		White Male Group		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
77 <sup>th</sup> Street	14	45%	3	10%	-	0%	17	19%
Southeast	7	23%	4	13%	1	3%	12	13%
Newton	1	3%	8	26%	-	0%	9	10%
Topanga	-	0%	1	3%	7	24%	8	9%
Hollenbeck	-	0%	6	19%	1	3%	7	8%
Pacific	3	10%	1	3%	2	7%	6	7%
Central	2	6%	1	3%	2	7%	5	5%
Southwest	2	6%	1	3%	1	3%	4	4%
Mission	-	0%	4	13%	-	0%	4	4%
West Valley	-	0%	-	0%	4	14%	4	4%
West LA	1	3%	-	0%	2	7%	3	3%
Devonshire	-	0%	-	0%	3	10%	3	3%
Rampart	-	0%	2	6%	-	0%	2	2%
Hollywood	1	3%	-	0%	1	3%	2	2%
Harbor	-	0%	-	0%	2	7%	2	2%
Van Nuys	-	0%	-	0%	1	3%	1	1%
Wilshire	-	0%	-	0%	1	3%	1	1%
N Hollywood		0%	-	0%	1	3%	1	1%
<b>Total</b>	<b>31</b>	<b>100%</b>	<b>31</b>	<b>100%</b>	<b>29</b>	<b>100%</b>	<b>91</b>	<b>100%</b>

It should also be noted that some Areas (and racial/ethnic groups) are likely overrepresented in the combined sample, due to the fact that similarly sized samples were drawn from groups of people stopped by GED that were not equal, as shown in the next table.<sup>48</sup>

<sup>47</sup> This table does not include Areas that did not have any stops in the OIG's sample.

<sup>48</sup> As noted previously, the OIG used a one-tail test with a 95 percent confidence level, a six percent expected error rate, and a seven percent plus precision to select a separate sample from each group.

Sample Stops by Sampling Group						
	Total Number of Stops <sup>49</sup>		Type of Stop		Number People in Stop	
Group	Stops in Population	Stops in Sample	Stop Only	Stop with Search(es)	One Stopped	Multiple Stopped
Black Group	2,805	31	7	24	14	17
Hispanic Group	4,200	31	11	20	20	11
White Group	299	29	19	10	25	4
<b>Total</b>	<b>7,304</b>	<b>91</b>	<b>37</b>	<b>54</b>	<b>59</b>	<b>32</b>

The table also shows that, in the OIG sample, GED stops involving black and Hispanic males were more likely to involve a search than were those involving white males. The table below shows the outcomes of each stop by sample group.

Sample Stops by Outcome and Sampling Group <sup>50</sup>								
	Black Male Group		Hispanic Male Group		White Male Group		Total	
Area	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Arrest	3	10%	1	3%	2	7%	6	7%
Citation	3	10%	1	3%	7	24%	11	13%
None	13	42%	17	55%	7	24%	37	41%
Warning	12	39%	12	39%	13	45%	37	41%
<b>Total</b>	<b>31</b>	<b>100%</b>	<b>31</b>	<b>100%</b>	<b>29</b>	<b>100%</b>	<b>91</b>	<b>100%</b>

As is also shown in the next table, stops involving black males, and to a lesser extent Hispanic males, were more likely to involve multiple people – including groups as large as seven – than were stops involving white males.

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<sup>49</sup> Refers to the number of stop incidents, not the number of people stopped. The stops in each group include at least one male from the selected racial/ethnic category, but no people from the other two racial/ethnic categories. For example, a stop in the “Black Male” group might contain additional black males and/or additional black females, but it would not include any Hispanic or white males or females.

<sup>50</sup> Officers also filled out Field Interview (FI) cards for 17 percent of the people stopped.

<b>Total People from Sample Stopped by Area and Demographic<sup>51</sup></b>						
<b>Area</b>	<b>Black</b>		<b>Hispanic</b>		<b>White</b>	
	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>
77th Street	6	26	1	5	-	-
Southeast	1	19	-	8	-	1
Newton	1	1	1	12	-	-
Topanga	-	-	-	1	3	7
Pacific	-	4	-	3	-	2
Hollenbeck	-	-	-	6	1	1
Southwest	-	4	-	1	-	1
Rampart	-	-	1	5	-	-
Central	-	2	-	1	-	2
West Valley	-	-	-	-	1	4
Mission	-	-	-	4	-	-
Devonshire	-	-	-	-	-	3
West LA	-	1	-	-	-	2
Harbor	-	-	-	-	-	3
Hollywood	-	1	-	-	-	1
Van Nuys	-	-	-	-	-	1
Wilshire	-	-	-	-	-	1
North Hollywood	-	-	-	-	-	1
<b>Grand Total</b>	<b>8</b>	<b>58</b>	<b>3</b>	<b>46</b>	<b>5</b>	<b>30</b>

Finally, the OIG found that the rate of stop and/or search issues identified varied by race/ethnicity. Fewer issues were identified in stops involving white males than those involving black or Hispanic males.

<b>Stop and/or Search Issues by Sampling Group</b>								
<b>Finding</b>	<b>Black Male Group</b>		<b>Hispanic Male Group</b>		<b>White Male Group</b>		<b>Total</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
No issues noted	16	52%	15	48%	24	83%	55	60%
Issue(s) noted	13	42%	13	42%	5	17%	31	34%
Unable to assess	2	6%	3	10%	-	0%	5	6%
<b>Grand Total</b>	<b>31</b>	<b>100%</b>	<b>31</b>	<b>100%</b>	<b>29</b>	<b>100%</b>	<b>91</b>	<b>100%</b>

In reviewing these comparisons, the OIG observed that the issues found in stops of each racial/ethnic group appeared to be concentrated in a few geographic Areas of the Department,

<sup>51</sup> This table does not include Areas that did not have any stops in the OIG’s sample.

most notably for the Black Male and White Male Groups. For example, 77<sup>th</sup> Street and Southeast Areas accounted for about 68 percent of all stops in the Black Male Group, and about 85 percent of the stops with identified issues in that same group. 77<sup>th</sup> Street, Southeast, and Newton Areas accounted for about 48 percent of all stops in the Hispanic Male Group, and about 54 percent of the stops with identified issues in that group. Finally, Devonshire, Harbor, and Central Areas accounted for 24 percent of all stops in the White Male Group, and 100 percent of stops with identified issues in that group.

The OIG also observed that stops with identified issues for both the Black Male and, to a lesser extent, Hispanic Male Groups were more likely to involve multiple people than to involve just one person. Specifically, 77 percent of stops in the Black Male Group with identified issues involved multiple people, while 54 percent of stops in the Hispanic Male Group involved multiple people. This dynamic was reversed in stops for the White Male Group, for which 80 percent of the cases with one or more issues involved a stop of just one person.

Finally, issues in all three groups appeared to be correlated with whether the stop included a search, which is not surprising given that the majority of issues that the OIG identified related to the search itself. All of the stops with identified issues for both the Black Male and White Male Group included one or more searches, as did 85 percent of stops with identified issues in the Hispanic Male Group.

As the Department continues its work to address the concerns that were identified in some of the stops conducted by GED officers, it may be useful to focus on the factors described above, including Area of assignment, stops of multiple people, and stops involving one or more searches. Within this framework, the Department should also continue to look for ways to mitigate the impact of implicit bias, and to analyze the data it regularly collects for indications of possible discrimination, disparate impact, or other areas of concern.

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## **VI. DEPARTMENT RESPONSE AND NEXT STEPS**

On Monday, November 15, 2018, the OIG met with the Chief of Police and shared some of the concerns and findings that we noted during our review of GED stops. The COP concurred with the OIG's findings and took immediate action to address the noted concerns as described below.

### **A. Distribution of Written Guidance**

The Department distributed a series of items providing guidance on consensual encounters, including the following:

- A Department-wide email from the Director of Constitutional Policing and Policy, including a reference to the Department's training bulletin on "Legal Contacts with the Public." (November 2018)
- The first issue of a quarterly Leadership Brief, including a message to supervisors from the Chief reminding them of the crucial role they play in ensuring the success of the organization and of the importance of continuously improving one's skills – "polishing the badge." (January 2019)
- A video published on the Department's internal website that was produced by the Los Angeles District Attorney's Office.

### **B. Training: Best Practices in Proactive Enforcement**

The Department also developed and implemented a five-hour training course on topics arising from the OIG's stop review for all GED officers and officers assigned to Metropolitan Division line platoons. This course was presented in January 2019 over four sessions (one for each Bureau), along with one make-up course. According to the Department's materials, the goal of the course was to provide officers with a review of officer safety concerns during proactive enforcement efforts, including an understanding of legal and policy mandates, the utilization of technology and effective tactics, and the awareness of public perception as it relates to building community trust.

OIG staff attended and observed one of the sessions and found it to be well designed and produced, touching on many of the primary areas identified in the OIG's review. A serious tone, emphasizing the importance of the content to be presented, was set early in the course by an introductory video presentation by the Chief of Police and the attendance of the top-ranking staff of the Department. As a result, the OIG observed strong engagement and participation by officers throughout the session, which incorporated videos – some of which had been taken from the OIG's review – and role-playing demonstrations into the lesson plan.

The training was particularly effective in explaining and providing examples of the difference between a consensual encounter and a detention supported by reasonable suspicion, and in emphasizing the need to have either consent or a reasonable basis prior to conducting additional searches. The course reinforced the importance of ensuring that such actions are clearly explained, both to the person being contacted and on the relevant paperwork, and of ensuring that cameras are activated in order to capture the incident. The final section of the session

focused on explaining and demonstrating tactical concepts, including contact-and-cover principles and procedures for safely conducting a search.<sup>52</sup> Participants also received a packet of resources containing comprehensive guidelines relating to a variety of topics relating to searches and seizures.

The OIG found the training to be an important step in reinforcing general Fourth Amendment principles and ensuring that officers understand their basic obligations in conducting and documenting each stop. In observing the session and hearing officers' comments, the OIG also noted a few areas that may benefit from additional clarification. These include, for example, the need to properly understand and apply the elements of various code violations, (i.e., riding a bicycle on the sidewalk, loitering/prowling, and "pedestrian in the roadway") and to ensure that a person has search conditions prior to conducting a probation-based search.<sup>53</sup> Each of these areas has been communicated to the Department.

Overall, the Department has been extremely responsive and proactive in addressing the concerns identified in the OIG's review. The training in particular was an important first step in demonstrating the Department's commitment to accountable, constitutional policing and in providing officers with the training and skills they need to ensure they are complying with Department policy and the law.

To enhance these efforts, the OIG has also developed a series of additional recommendations that are focused on clarifying areas of potential confusion, bolstering the Department's ability to identify and address areas of possible concern, and promoting procedural justice during stops. Although this review focused specifically on stops conducted by GED officers, the OIG recommends that these steps, described in the next section, be implemented Department-wide to ensure understanding and consistency across the LAPD.

The following recommendations, along with the associated findings, were presented to the Department on January 28, 2019.

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<sup>52</sup> The OIG's review did not focus on the tactics used by the officers in conducting stops and searches. A review of the video, however, highlighted deficiencies in how some officers were approaching and searching the people being stopped. As a result of concerns identified by the Department, a module on tactics and officer safety was therefore incorporated into the training.

<sup>53</sup> The OIG notes that comprehensive information relating to searches of probationers was included in the packet provided to training participants.

## VII. RECOMMENDATIONS

Based on the findings set forth in this report, the OIG recommends the Commission direct the Department to do the following:

1. Continue to look for opportunities to provide and reinforce training on Fourth Amendment concepts, including guidelines related to consent, detention and search requirements, and probation-related searches and seizures.
2. Clarify and reinforce the elements necessary to detain people for suspected violations of codes relating to loitering, riding a bicycle on the sidewalk, and other activities governed by codes that may be misused or misunderstood.<sup>54</sup>
3. Continue to develop a system to analyze stop data, as directed by the Commission in May 2017, in an effort to identify disparate treatment or other issues.<sup>55</sup>
4. Develop a process for regular audits or inspections of stops, including the comparison of AFDR data to video evidence, to ensure accuracy of stop data and appropriateness of stops and related searches.
5. Develop systems and training for line supervisors to identify and review potential problem areas using AFDR data and associated video footage. Possible “red flags” may include:
  - a. Groups of stops for which the justifications or descriptions appear identical in nature;
  - b. Repeated stops documented as consensual encounters, particularly of large groups and/or involving searches;
  - c. Repeated use of boilerplate or canned language;
  - d. Overly general or otherwise problematic descriptions of the basis for stops or searches;
  - e. Unusually high rates of searches documented as being consensual; and/or
  - f. Unusually high rates of searches that do not yield the suspected item
6. Review Area-level video inspection data to ensure that inspections are properly checking for on-time activation of both BWV and DICV devices. Ensure there is accountability for officers who repeatedly activate the devices late.

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<sup>54</sup> See also the OIG’s previous recommendation relating to the clarification of elements relating to pedestrian violations, drunk-in-public/under-the-influence codes, and trespassing. “[Review of Arrests for Violations of California Penal Code Section 148\(a\)\(1\)](#),” Office of the Inspector General, August 28, 2018, page 37. (Recommendation 1)

<sup>55</sup> “[Review of National Best Practices](#),” Office of the Inspector General, May 17, 2017, page 48. (Recommendation D-4.) See also Recommendation 5 in “[Review of Arrests for Violations of California Penal Code Section 148\(a\)\(1\)](#),” Office of the Inspector General, August 28, 2018, page 37.

7. Continue to develop policies and procedures related to enhancing procedural justice during stops, as begun by the Procedural Justice Working Group in September 2018.<sup>56</sup> Consider including guidance relating to:
  - a. Identifying oneself during the stop;
  - b. Providing an explanation for the stop and any related searches as soon as practicable;
  - c. Ensuring that consent is clearly given prior to conducting a consent search;
  - d. Limiting the duration of the detention to what is necessary to take appropriate action;
  - e. Maintaining professionalism and treating people with respect; and
  - f. Answering questions and providing the stopped person an opportunity to be heard
8. Develop a plan to ensure that all officers understand and abide by processes for the distribution of a business card when required and ensure that they are properly equipped to do so.<sup>57</sup>
9. Remind officers of the requirement to provide the applicable disclosure prior to requesting a person's Social Security Number.

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<sup>56</sup> See also Recommendation A-1 in "[Review of National Best Practices](#)," Office of the Inspector General, May 17, 2017, page 47.

<sup>57</sup> *Id.*, page 49. (Recommendation F-1)