



November 9, 2017

Attorney General Xavier Becerra  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814-2919

**Re: Kern County Sheriff's Office & Bakersfield Police Department**

Dear Attorney General Becerra,

In December 2016, the Office of the Attorney General opened civil rights investigations into the Kern County Sheriff's Office (KCSO) and the Bakersfield Police Department (BPD) and invited anyone with relevant information concerning either agency to contact the Civil Rights Enforcement Section. The ACLU of California has been investigating police excessive force in Kern County for more than a year, and we submit the enclosed report summarizing our initial findings and recommendations for changes and for the scope of your investigation.

Our findings show that both KCSO and BPD have engaged in patterns and practices that violate civil rights. KCSO and BPD officers have engaged in patterns of excessive force—including shooting and beating to death unarmed individuals and deploying canines to attack and injure—as well as a practice of filing intimidating or retaliatory criminal charges against individuals they subject to excessive force. Deficient oversight and accountability structures have allowed law enforcement misconduct to go unchecked and in some cases escalate. We urge your office to thoroughly investigate these patterns and practices, and to take all necessary action within your power to ensure they do not continue.

The sources and data we cite in our report cannot be taken as a comprehensive accounting of all evidence of excessive force by KCSO and BPD. The ACLU of California has consistently been constrained by legal limitations on the public's right to access records related to police use of force and discipline. We therefore urge the Office of the Attorney General to use its statutory authority to conduct a more complete examination of KCSO and BPD practices than we were able to carry out.

Specifically, we urge the Office of the Attorney General to closely review records reporting or reviewing shootings and other individual uses of force by KCSO and BPD officers. In particular, we encourage your office to examine records of KCSO and BPD's non-lethal uses of force. Because there is more publicly available information about use of force that leads to a death in custody, our report focuses on deadly incidents. But we received many indications—through conversations with community members, news media reports, and court records<sup>1</sup>—that KCSO

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<sup>1</sup> See, e.g., *Gonzalez-Chavez v. City of Bakersfield et al*, No. 1:12-cv-02053 (E.D. Cal. Feb. 13, 2017) (jury verdict finding excessive force in case where plaintiff alleged BPD officer approached him while he was sitting in his friend's car; forcefully removed him from said car; hit him with weapons and punches about the arms, leg, face, and

and BPD officers also engage in patterns and practices of nonlethal but nevertheless illegal excessive force, which, if unchecked, can escalate to cause deadly consequences, as documented in our report. In particular, we urge your office to obtain and review canine use of force reports from both agencies as needed to conduct a comprehensive review of their canine deployments. The list of people injured by canine attacks that we have assembled is based only on media reports and court filings, and is therefore incomplete. In conversations with community members, we heard additional troubling anecdotes about injuries resulting from canine use of force.

Additionally, we encourage the Office of the Attorney General to review court files for recent cases involving “resisting” or “assault on police” charges initiated by KCSO and BPD officers pursuant to Cal. Penal Code §§ 69, 148(a)(1), and 600. Because the Kern County Superior Court charges prohibitively high fees for copies of court records and even on-site review of court files, we were unable to conduct a comprehensive analysis of recent cases; we reviewed a sample of cases instead. Based on our review of this sample, the data we cite in our report, and conversations we have had with Kern County residents and advocates, we believe that a thorough review of court filings will reveal more information about the agencies’ practice of improperly using criminal charges to preempt and defend against allegations of excessive force.

Finally, our investigation was limited in scope to issues of excessive force and customs and practices that enable excessive force. We encourage the Office of the Attorney General to address all other patterns and practices of misconduct within KCSO or BPD as part of its investigation.<sup>2</sup>

As you know, the Attorney General has the legal authority under California law to bring civil actions in the name of the people against law enforcement agencies that engage in patterns or practices that deprive people of their rights, and to obtain equitable and declaratory relief to eliminate such unlawful patterns or practices. Our findings establish that both KCSO and BPD maintain a number of patterns and practices that deprive people of their constitutional rights to be free from excessive force. Accordingly, we call on your office to demand that KCSO and BPD correct their patterns and practices of abuse by taking specific steps outlined in our enclosed report.<sup>3</sup> If the agencies do not formally consent to adopting the suggested reforms, we urge the Attorney General to exercise its power to bring a court action for equitable relief against them.

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body; and tased him without cause); Jon Swaine & Oliver Laughland, “The County: where deputies dole out rough justice,” *The Guardian* (Dec. 4, 2015).

<sup>2</sup> In particular, we urge the Attorney General’s Office to investigate reports that KCSO and BPD have engaged in patterns and practices of sexual harassment and sexual assault. *See* Oliver Laughland & Jon Swaine, “The County: sexual assault and the price of silence,” *The Guardian* (Dec. 8, 2015). Additionally, court records we reviewed suggested patterns of unlawful search and seizure, including stopping people pretextually and/or without adequate cause, and arresting people for violation of Cal. Penal Code § 148(a)(1) for lawfully asserting their constitutional rights.

<sup>3</sup> The remedial measures we suggest in our report should be viewed as a floor, rather than a ceiling. Certainly, the Attorney General’s complete investigation may uncover need for further systemic reforms.

Thank you for your attention to this important matter. We hope that the information we provide to you with this letter is useful for your investigation. If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Adrienna Wong', with a long horizontal flourish extending to the right.

Adrienna Wong, Staff Attorney, ACLU of Southern California

A handwritten signature in blue ink, appearing to read 'Peter Bibring', with a stylized, cursive script.

Peter Bibring, Director of Police Practices, ACLU of California

cc: Angela Sierra, Senior Assistant Attorney General, Civil Rights Enforcement Section.  
Nancy Beninati, Supervising Deputy Attorney General, Civil Rights Enforcement Section  
Ronald H. Lee, Deputy Attorney General, Civil Rights Enforcement Section