

UNCONSTITUTIONAL PATTERNS & PRACTICES

in the BAKERSFIELD POLICE DEPARTMENT

I. Introduction

In 2017, the ACLU of Southern California published a report documenting patterns and practices of excessive force by the Bakersfield Police Department (BPD)—including shooting and beating to death unarmed individuals and deploying canines to attack and injure—as well as filing intimidating or retaliatory criminal charges against individuals subjected to excessive force.¹ Unfortunately, over the past four years, BPD has maintained these same troubling practices, even as it has been under investigation by the California Department of Justice (DOJ) for civil rights violations.

This is an update to our [2017 report](#). Based on use of force data from collected by the Department of Justice and other publicly available information, we find:

- BPD continues to use canines to attack and seriously injure members of the public, including many unarmed people, at rates similar to when the California DOJ first launched its civil rights investigation, and disproportionately against Black and Latine² people and people with mental illnesses.
- BPD remains one of the deadliest police departments in the state and country, shooting unarmed individuals and people with mental illness or impairment with alarming frequency, and killing Black and Latine people in the vast majority of deadly force cases.
- BPD continues to regularly use severe excessive force of other forms—including impact weapons (such as batons), pepper spray, chokeholds, and tasers—even against unarmed people, and primarily against Black and Latine people and people with disabilities, resulting in broken bones and other serious injuries requiring hospitalization.
- BPD’s use of force policy continues to fall below minimum standards and fails to comply with the law.
- BPD continues to use criminal charges (most commonly “resisting arrest”) as a mechanism to preempt and defend against allegations of excessive force or racial profiling.
- BPD continues to allow officers who engage in serious uses of force or other civil rights violations to continue injuring or even killing community members.

Additionally, based on an investigation stemming from our *Mitchell v. Jeffries* litigation, we find that BPD maintains a policy and custom of racially discriminatory and unconstitutional pretextual stops.

II. Findings

A. The Bakersfield Police Department Continues to Use Excessive Force

BPD has failed to curb the violence perpetrated by its officers, disregarding both policy recommendations made by the United States Department of Justice in 2004 and the demands of community members³ who have been clamoring for change and accountability for years.⁴ As described below, BPD officers continue to use canine attacks, deadly force, and other brutal force against community members—unlawfully and disproportionately against Black, Latine, and disabled community members. Further, BPD fails to hold officers accountable for excessive force, instead enabling them to file criminal charges to cover their misconduct and allowing the same officers to injure or kill community members repeatedly.

I. Canine Attacks

BPD continues to use canines to attack members of the public with results that are life-threatening and hazardous for public safety, at rates similar to when the California DOJ first launched its civil rights investigation.⁵ BPD canines have injured many individuals in the past four years; some have sustained lacerations and/or broken bones.⁶ BPD continues to use canine attacks not to avoid other use of force, but in addition to tasers, baton strikes, and gunshots.⁷ Although in 2019 BPD reported only one canine attack resulting in serious injury, 2020 saw a steep increase with BPD reporting nine canine attacks resulting in serious injury.⁸ In 2020, 89% of canine attacks involved a Black or Latine individual.⁹ Additionally, 67% were unarmed and 56% were exhibiting signs of mental illness or impairment.¹⁰ In 2019, BPD deployed a canine on an unarmed individual exhibiting signs of mental illness, resulting in lacerations on their head and upper body, in addition to using a control hold on the individual.¹¹ In 2020, BPD deployed a canine on an unarmed individual exhibiting signs of impairment, resulting in lacerations on their arms, hands, and front legs.¹²

Publicly available data confirms that many of the troubling patterns related to BPD's use of canine attacks described in our 2017 report have continued.¹³ First, BPD continues to deploy canine attacks against people who are unarmed or only armed with a knife at alarming rates. Of those who sustained serious bodily injury from a canine attack between 2018 to 2020 collectively, 81% were unarmed or only armed with a knife.¹⁴ Second, BPD's canine deployment continues to disproportionately impact Black and Latine individuals, as well as those with mental illness. For example, 89% of those who sustained serious bodily injury in 2020 were Black and Latine, 56% were exhibiting signs of mental illness or impairment, and all sustained lacerations or cuts.¹⁵ This disproportionate impact of canine attacks on Black, Indigenous, and people of color (BIPOC) individuals is particularly troubling in light of the fraught and racist history of how police have weaponized dogs as a tool of violent oppression against Black communities.¹⁶

II. Officer-Involved Shootings

Too little has changed since 2015, when reporting by the Guardian cast a spotlight on BPD as one of the deadliest police departments in the country.¹⁷ Regrettably, BPD remains an outlier as to the number of its officer-involved shootings compared to similar law enforcement agencies.¹⁸ Comparing BPD to police departments in cities with similar crime rates or higher, BPD's rate of police killings is ninth in the country, and second highest in California.¹⁹

BPD shootings continue to demonstrate long-standing patterns that raise serious constitutional concerns. *First*, BPD continues to shoot individuals who are unarmed, or armed only with a knife.²⁰ In 2019, BPD shot and critically injured an unarmed Latine individual who was exhibiting signs of mental illness.²¹ In 2020, at least 50% of individuals shot by BPD were unarmed or armed only with a knife.²² On November 30, 2020, BPD shot an unarmed individual who was sitting in his parked truck making suicidal statements.²³

Second, BPD shoots individuals exhibiting signs of mental illness or impairment at alarming rates.²⁴ Of the 13 BPD shootings between 2018 and 2020, at least 69% involved an individual exhibiting signs of mental illness.²⁵ In 2020, at least 43% of BPD's shootings occurred even after a 911 dispatcher informed BPD that the individual had a mental disability or impairment.²⁶ For example, on October 13, 2020, BPD was notified by a 911 dispatcher that Jose Marcos Ramirez was schizophrenic. After a foot pursuit, Ramirez, who was armed only with a knife, made suicidal statements. Rather than employing de-escalation tactics, BPD officers fatally shot Ramirez within seconds.

Similarly, in 2020, at least 43% of BPD's shootings involved individuals who made suicidal statements.²⁷ For example, on August 17, 2020, BPD was notified by a 911 dispatcher that Everardo Gonzalez Santanca was "under [the] influence of H&S" and armed only with a knife.²⁸ When BPD made contact, officers drew their weapons and escalated the situation. Although Mr. Santanca had his hands raised above his head and was yelling suicidal statements in Spanish, BPD officers fatally shot him within seconds.²⁹

Leading up to these shootings, BPD officers failed to attempt to create distance, use non-lethal methods, or use any other methods of de-escalation. Kern Behavioral Health director Bill Walker has stated that officers who are dealing with an individual exhibiting mental health issues are supposed to call the Kern Behavioral Health Mobile Unit. Instead of instructing officers to call on outside clinical experts, however, BPD maintains that all of its officers can and should individually respond to psychiatric and emotional crises.³⁰ As noted in our 2017 report, these patterns are in tension with established Fourth Amendment law and policing principles, which justify the use of deadly force only to prevent imminent death or serious injury to officers or others.³¹ They are at even greater odds with California's "necessary" standard for deadly force enacted by Assembly Bill 392 in 2019, as well as AB 392's clear statement that officers may not use deadly force against people based on the threat they may pose to themselves.

Third, BPD's officer-involved shootings disproportionately impact BIPOC communities. Analysis by The Bakersfield Californian ("The Californian") of BPD records, obtained through public records requests, found that "[o]f the 68 people involved in officer-involved shootings over the last decade [i.e., 2009-2019], 81% have been people of color."³² The Californian found that Black individuals in Bakersfield are four times more likely than white individuals to be shot by BPD, while Latine individuals are twice as likely.³³ Eighty-three percent of BPD shootings resulting in serious bodily injury or death that the agency reported to California DOJ between 2018 to 2020 involved a Black or Latine individual.³⁴

III. Other Forms of Excessive Force

BPD continues to use various other forms of excessive force—including impact weapons (such as batons), pepper spray, chokeholds, tasing, and life-endangering restraints.³⁵ In 2018, every person subjected to severe force by BPD officers were unarmed or armed with only a knife.³⁶ In these severe force incidents, BPD employed a variety of force tactics: batons (31% of incidents), tasers (31% of incidents), control holds (54% of incidents), and canines (51% of incidents).³⁷ In 2020, 75% of individuals subjected to severe force by BPD were unarmed.³⁸

The data also show that BPD's excessive force disproportionately impacts Latine and Black individuals and people with disabilities. In 2018, 54% of individuals subjected to severe force by BPD were Black and Latine, and 38% were experiencing signs of mental illness or drug impairment.³⁹ The data reflects that in 2019, BPD employed the same unconstitutional practices. Disturbingly, every single severe use of force reported by BPD for that year involved individuals exhibiting signs of mental illness or impairment.⁴⁰ Ninety percent were Black and Latine, and 70% were unarmed.⁴¹ In one incident, for example, BPD physically assaulted, tased, and used a carotid hold on an unarmed Black individual who was exhibiting signs of mental illness and rendered him unconscious.⁴² 2020 saw similar unconstitutional practices by BPD. Eighty-three percent were Black and Latine, and 75% were unarmed.⁴³

Between 2018 to 2020, 46% of individuals sustained bone fractures after BPD employed severe force against them.⁴⁴ A 2021 report by KQED found that, between 2016 to 2019, BPD broke one or more bones in one-third of incidents after employing severe force.⁴⁵ Additionally, KQED found that “[u]sing batons, officers broke bones in 26 people; once, an officer broke the baton.”⁴⁶ In a 2019 incident, BPD fractured the bones and rendered an unarmed Latine individual unconscious who was exhibiting signs of mental illness after striking him with a taser, beating him with a baton, and employing a control hold and carotid hold.⁴⁷

BPD frequently uses force in response to minor public safety issues. Nearly half of force incidents arise from BPD pursuing low-level misdemeanor crimes or alleged nuisance behavior, or from officers responding to behavioral health crises.⁴⁸ For example, in 2018, 25% of individuals subjected to force by BPD officers were charged solely with resisting arrest; 13% were charged with being under the influence; 14% were charged with property crimes; and 2% were arrested pursuant to Welfare and Institutions Code § 5150.⁴⁹ In 2019, BPD reported similar patterns.⁵⁰

Of the force incidents reported by BPD in its Annual Report, about 55% of individuals sustained injuries,⁵¹ and 44% required hospitalization.⁵² However, BPD reported only a small fraction of these incidents to URSUS as having resulted in serious bodily injury or death.⁵³

IV. Use of Force Policy

In 2004, the US-DOJ made several recommendations to BPD because its use of force policy was deficient and risked encouraging unlawful force.⁵⁴ However, as initially noted in our 2017 report, BPD failed to incorporate many of the US-DOJ's recommendations – and still refuses to incorporate them.⁵⁵

- First, US-DOJ noted that BPD's use of force policy does not adequately limit officers' use of force to cases in which it is required to make a lawful arrest or protect an officer or third-party from an immediate safety threat.⁵⁶ Key portions of BPD's current use of force policy remain unchanged since our 2017 report, in which we noted that the policy too-broadly authorizes officers to use force "in carrying out their duties" and "to accomplish a legitimate law enforcement purpose," rather than limiting force to when it is necessary and proportional to serve the limited aims recommended by the US-DOJ.⁵⁷
- Second, US-DOJ recommended that BPD remove from its use of force policy the statement "[i]t is impossible ... to instruct officers how to react in each and every situation where the need to use force may occur," noting that it was problematic and suggested that there are no parameters for an officer to follow when the use of force is necessary.⁵⁸ Although we observed in our 2017 report that BPD's use of force policy contained a similar problematic statement – "there is no way to specify the exact amount or type of reasonable force to be applied in any situation" – the statement nevertheless remains in the policy and has not been changed.⁵⁹
- Third, US-DOJ observed that BPD's policy failed to recognize that certain types of force may constitute either deadly or non-deadly force depending on how they are used—i.e., noting that baton strikes to the head, for example, can be deadly.⁶⁰ However, BPD's current policy still fails to note that a baton strike can be deadly.

Additionally, BPD's use of force policy fails to accurately reflect the current legal standard for deadly force under California law for several reasons:

- **The policy does not adequately distinguish the standards that apply to deadly and non-deadly force.** BPD's use of force policy holds itself out as providing guidelines only on the "reasonable use of force" (300.1). Indeed, the policy states that its guidelines on the "reasonable application of force" apply to "all policies on the potential use of force," without distinguishing deadly force (300.1). No part of the "Purpose and Scope" section of the policy indicates in any way to officers that there is a standard that governs their use of force other than the "reasonableness" standard. This overarching emphasis on "reasonable force" without differentiating between deadly and non-deadly force continues through the entire policy. *See* Section 300.3 (encouraging officers to use improvised force devices and methods, so long as they are "objectively reasonable" without appropriately limiting use of improvised deadly force); Section 300.3.1 (stating that an officer may use "objectively reasonable force" to effect an arrest, to prevent escape, or to overcome resistance without clarifying, as the law does, that a different standard applies to the use of deadly force to arrest, prevent escape, or overcome resistance); Section 300.3.4 (stating that "officers may use

reasonable force to lawfully seize evidence and to prevent the destruction of evidence” without specifying that officers may not use deadly force for such purposes).⁶¹

- **The policy fails to adequately communicate the new law on deadly force enacted by AB 392 in its section on “Deadly Force Applications.”** BPD’s deadly force policy omits the key guiding principle that peace officers may use “deadly force only when necessary in defense of human life.” Penal Code § 835a(a)(2); POST Guidelines at 30. The policy also contorts the language of Penal Code § 835a(a)(2), obscuring how officers should determine whether deadly force is necessary. The law states: “[i]n determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.”⁶² Penal Code § 835a(a)(2) (emphasis added). Thus, the law makes clear that deadly force is “necessary” only when there are no “other available resources and techniques” that would be “reasonably safe and feasible to an objectively reasonable officer.” In contrast, BPD’s policy states: “If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force” (300.4). By omitting the phrase “[i]n determining whether deadly force is necessary,” the policy removes guidance the law includes to instruct officers how to apply the “necessary” standard. Penal Code § 835a(a)(2). The policy does not otherwise define when force is “necessary.” Moreover, by switching the order of the clauses in Penal Code § 835a(a)(2), the policy changes the provision’s meaning – suggesting that in some circumstances, officers need not evaluate whether deadly force is necessary after all. Additionally, BPD’s policy contorts language from Penal Code § 835a(a)(2) that provides: “A peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, *that such force is necessary for either of the following reasons....*” In contrast, BPD’s policy states that deadly force is justified “when the officer reasonably believes it is necessary in the following circumstances: (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person. (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.” (300.4). In this way also, BPD’s policy obscures the fact that the law permits officers to use deadly force only when such force is *necessary for the specified purposes to defend human life*—not whenever a threat may be perceived.⁶³
- **The policy fails to clearly instruct officers on definition of “retreat.”** Penal Code § 835a(d) states that although an officer need not “retreat” from efforts to arrest by reason of the resistance of the person being arrested, “‘retreat’ does not mean tactical repositioning or other de-escalation tactics,” which the law may indeed require officers to use instead of force. The policy includes this statutory language in one section, but in a separate section, states: “nothing in this policy requires an officer to find the best way to handle a situation or use the least amount of force possible in any situation, to retreat, or be exposed to possible physical injury before applying reasonable

force” without specifying that an officer may still be required by law to tactically reposition or use other de-escalation tactics before using deadly force pursuant to the “necessary” standard.

- **The policy fails to include a clear de-escalation requirement, as mandated by law.** Pursuant to SB 230, police department use of force policies must include a requirement that “officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible.” This requirement is consistent with AB 392’s requirement that officers use alternative resources and techniques instead of deadly force whenever feasible. It is also consistent with AB 392’s clarification that although an officer need not “retreat” from efforts to arrest by reason of the resistance of the person being arrested, “‘retreat’ does not mean tactical repositioning or other de-escalation tactics,” which the law may indeed require officers to use instead of force. Penal Code § 835a(d)).

BPD’s policy contorts and buries this de-escalation requirement in hedging language. It states: “[W]hen reasonable, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force. (Gov’t Code § 7286(b)(1)). This language dilutes the clear requirement set forth in Government Code § 7286(b)(1); it must be replaced with language that directly quotes the statute.

- **The policy fails to include a clear duty to intercede, as mandated by law.** BPD’s policy weakens the duty to intercede to prevent excessive force that SB 230 requires, through the addition of extraneous hedging language. The policy states that officers should intercede to prevent excessive force by other officers “when in a position to do so.” This vague phrase is not in Government Code § 7286(b)(8), though the Policy cites that provision, nor in the related POST Guidelines, and it should be deleted to accurately reflect the statute. *See* POST Guidelines at 20.

V. Abuse of Process to Pursue “Cover Charges” for Excessive Forces

BPD continues to use criminal charges (most commonly “resisting arrest”) as a mechanism to preempt and defend against allegations of excessive force or racial profiling.⁶⁴ BPD arrested more than 94% of individuals following a use of force incident in both 2018 and 2019.⁶⁵ BPD’s officers filed a “resisting” charge as the sole charge in 25% and 21% of the charges filed related to its reported use of force incidents in 2018 and 2019 respectively.⁶⁶ These figures do not account for the additional “resisting” charges filed by BPD in conjunction with other charges.⁶⁷

VI. Failure to Monitor, Train, and Discipline

BPD continues to fail to monitor and discipline officers engaged in serious uses of force or other civil rights violations. Our 2017 report noted that BPD employed at least 8 repeat shooters since 2009.⁶⁸ BPD has continued to employ officers who have been involved in dubious shootings, serious uses of force, or other civil rights violations in the years since we published our report. BPD Detective Jeffrey Martin, for example, was involved in a 2014 shooting, and last year took part in the shooting of Everardo Gonzalez Santanca—an individual with a drug impairment who was making suicidal statements and had his hands raised when officers shot him. Additionally, BPD Officer Brendan Thebeau shot two people in two years, including Jose Reyes, the passenger of a vehicle that was subjected to a traffic stop for an unspecified vehicle-code violation, and who was shot by Thebeau while fleeing on foot.⁶⁹

BPD officers who have been involved in shootings have also violated the civil rights of community members, sometimes leading to federal lawsuits. In 2016, BPD Officer John Bishop was involved in the shooting of Hugo Fernando Celio. A year later, Bishop conducted a pretextual traffic stop and unlawfully detained a Black passenger for exercising his Constitutional right to not identify himself or provide information because he was not a suspect of a crime—leading to a lawsuit filed by our office on Robert Mitchell’s behalf. Similarly, former BPD Senior Officer Charles Sherman took part in the 2007 shooting of Jesus German Sarabia—firing 15 shots while Mr. Sarabia lay on his back underneath a camper shell on the floor;⁷⁰ collectively, Sherman and ten other officers fired 104 shots.⁷¹ Nevertheless, BPD promoted Sherman to Sergeant. Sherman was subsequently involved in the 2017 unlawful arrest of Robert Mitchell, and subject to a federal lawsuit filed by our office. Despite the disturbing use of severe force against BIPOC and disabled community members, BPD continues to defend its use of force as “judicious and skilled.”⁷² In BPD’s defense, Sergeant Lynn Martinez told KQED “We can’t do our job without use of force. Sometimes police officers will have to hurt people to protect themselves and others.”⁷³ BPD’s unwillingness to incorporate alternatives to police, and the City of Bakersfield’s failure to re-allocate funding to services housed outside of the BPD, continue to foment the lack of accountability and discipline by BPD which predictably enables officers to continue perpetuating unconstitutional patterns and practices.

III. BPD Maintains a Policy and Custom of Racially Discriminatory and Unconstitutional Pretextual Stops

BPD policy and custom encourage officers to conduct racially discriminatory stops, under the guise of traffic and other petty code enforcement, in ways that violate community members' constitutional rights. BPD directives instruct officers to engage in "proactive patrols" and "preventative patrols": patrols to aggressively conduct pretextual traffic stops for the purpose of gathering information and carrying out searches unrelated to the purported legal basis for the stop. BPD's Special Enforcement Unit (i.e., its gang unit), prominently employs "proactive patrols" in which SEU officers are "constantly on the lookout and screening cars"⁷⁴ while engaging in such patrols in targeted neighborhoods where more Black and brown residents live.⁷⁵ This practice perpetuates profiling based on officers' subjective perceptions of possible gang affiliation based on racial and identity characteristics.⁷⁶ As a result of the correspondingly increased police presence, communities of color are over-policed relative to people that live in other neighborhoods in Bakersfield. It also heightens the risk of police violence in those same communities: BPD reported that at least 9% of traffic stops in 2018 resulted in force, and 2019 saw at least a 3% increase.⁷⁷ BPD must put an end to racial profiling, pretext stops, and consent searches. This is not impossible, and in fact a 2003 settlement required the California Highway Patrol (CHP) to do the same.⁷⁸

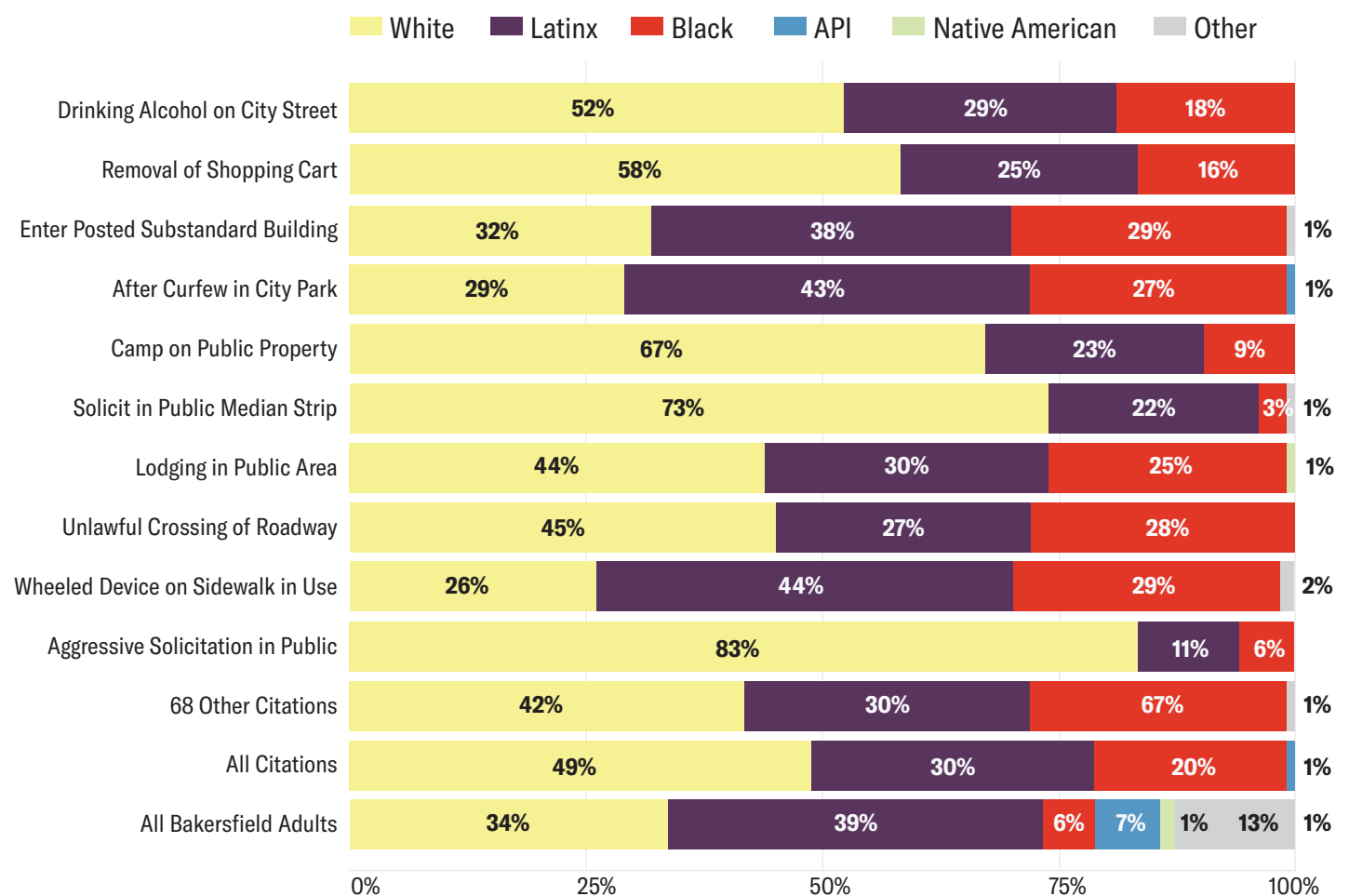
Compounding this problematic policy, BPD training fails to adequately instruct officers on the legal limitations of their authority to prolong stops for unrelated investigations. BPD training materials, for example, inaccurately instruct officers that they may detain passengers for questioning following a traffic stop of a vehicle, without clearly defining the limited scope of officers' authority with respect to such detentions. The resulting investigations unconstitutionally prolong stops, violating the rights of pedestrians, drivers, and passengers. *See Rodriguez v. United States*, 135 S. Ct. 1609, 1612, 14-16 (2015) (holding police stop exceeding time necessary to handle matter for which stop was made violates Fourth Amendment); *United States v. Landeros*, 913 F.3d 862, 868 (9th Cir. 2019) (holding that "[a] demand for a passenger's identification is not part of the mission of a traffic stop" so extension of a stop to seek a passenger's identity "violate[s] the Fourth Amendment unless supported by independent reasonable suspicion"); *United States v. Evans*, 786 F.3d 779, 786-87 (9th Cir. 2015) (holding that prolonging traffic stop to investigate "ordinary criminal wrongdoing" or to inquire into motorist's criminal history violates Fourth Amendment).

Stop data confirms the impact of BPD's discriminatory stop practices on Black community members in Bakersfield. Data obtained by the Stanford Open Policing Project shows that BPD officers stop Black drivers at higher rates than white drivers.⁷⁹ Additionally, one of the most common citations BPD officers issue is for jaywalking in downtown Bakersfield, and they have issued 28% of those citations to Black people—even though only 6% of the city's population is Black.⁸⁰ Black adults in Bakersfield are twice as likely to receive infraction citations from BPD officers as white adults,⁸¹ and they receive a disproportionate number of infraction citations relative to their population—20% of all non-traffic infraction citations.⁸² Nineteen percent of the infractions issued by BPD were for "Drinking Alcohol on City Street"; Black adult community members received 18% of infraction citations issued for this violation.⁸³ BPD's racialized criminalization also disproportionately impacts Black houseless community members, who are stopped and arrested at higher rates for code violations directly related to poverty (e.g., sleeping in a public place, public nuisance).⁸⁴

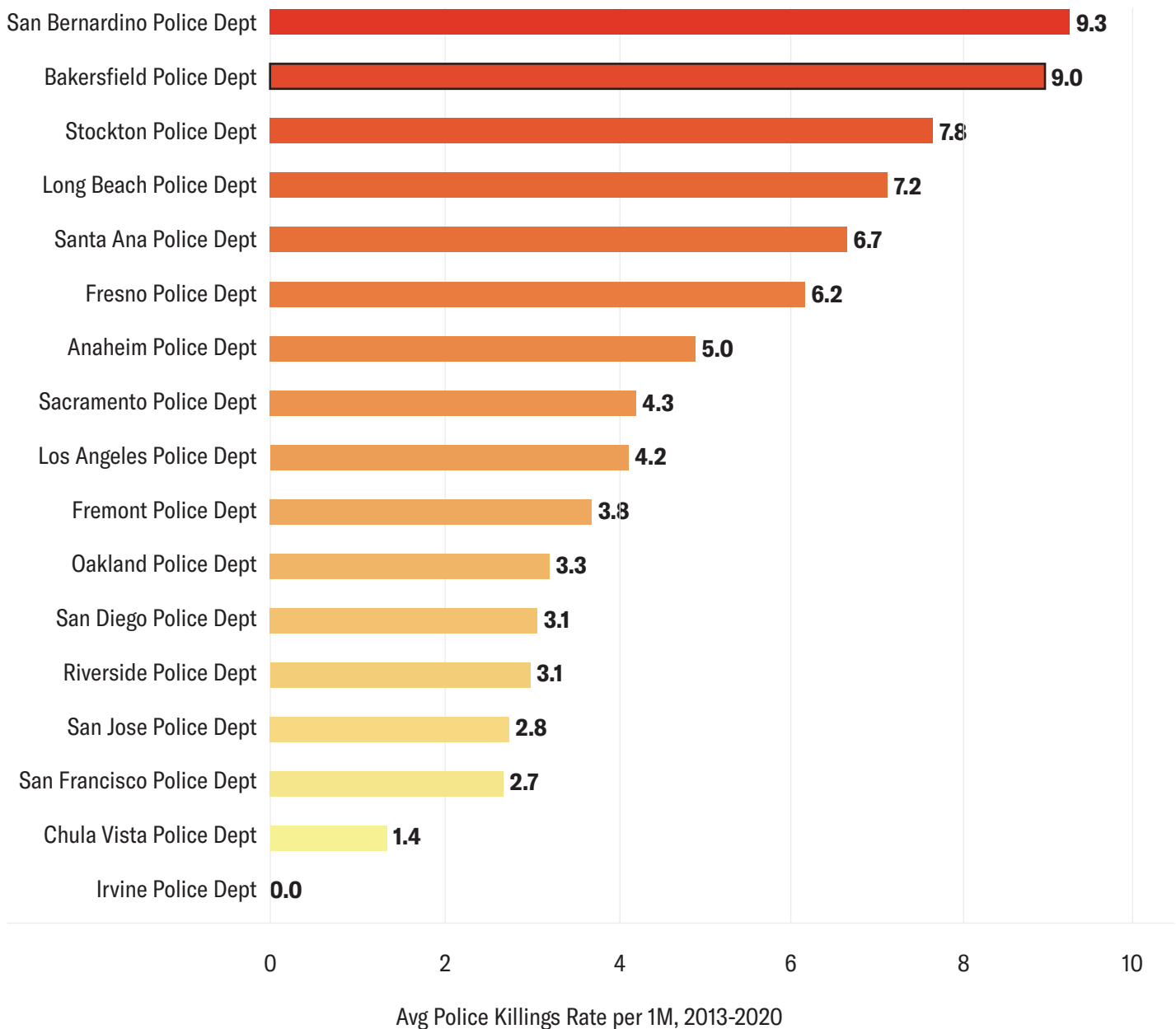
IV. Conclusion

As described above, BPD continues to perpetuate patterns and practices that violate the civil rights of community members, particularly Black, Latine, and disabled community members. The City Council, Mayor, and leadership of the Bakersfield Police Department share collective responsibility to ensure that these unlawful practices and harms to the community end now, so that the lives, dignity, and civil rights of Bakersfield community members are safeguarded.

PRA6b Bakersfield Police Department: Top 10 Citation Types by Race (%) (2017-2019)



Source: Bakersfield Police Department, Citation Register (2017-2019), U.S. Census Bureau, 2014-2018 American Community Survey 5-year estimates

Rate of Police Killings per Population (All States) Data from Jan, 2013 through Dec, 2020

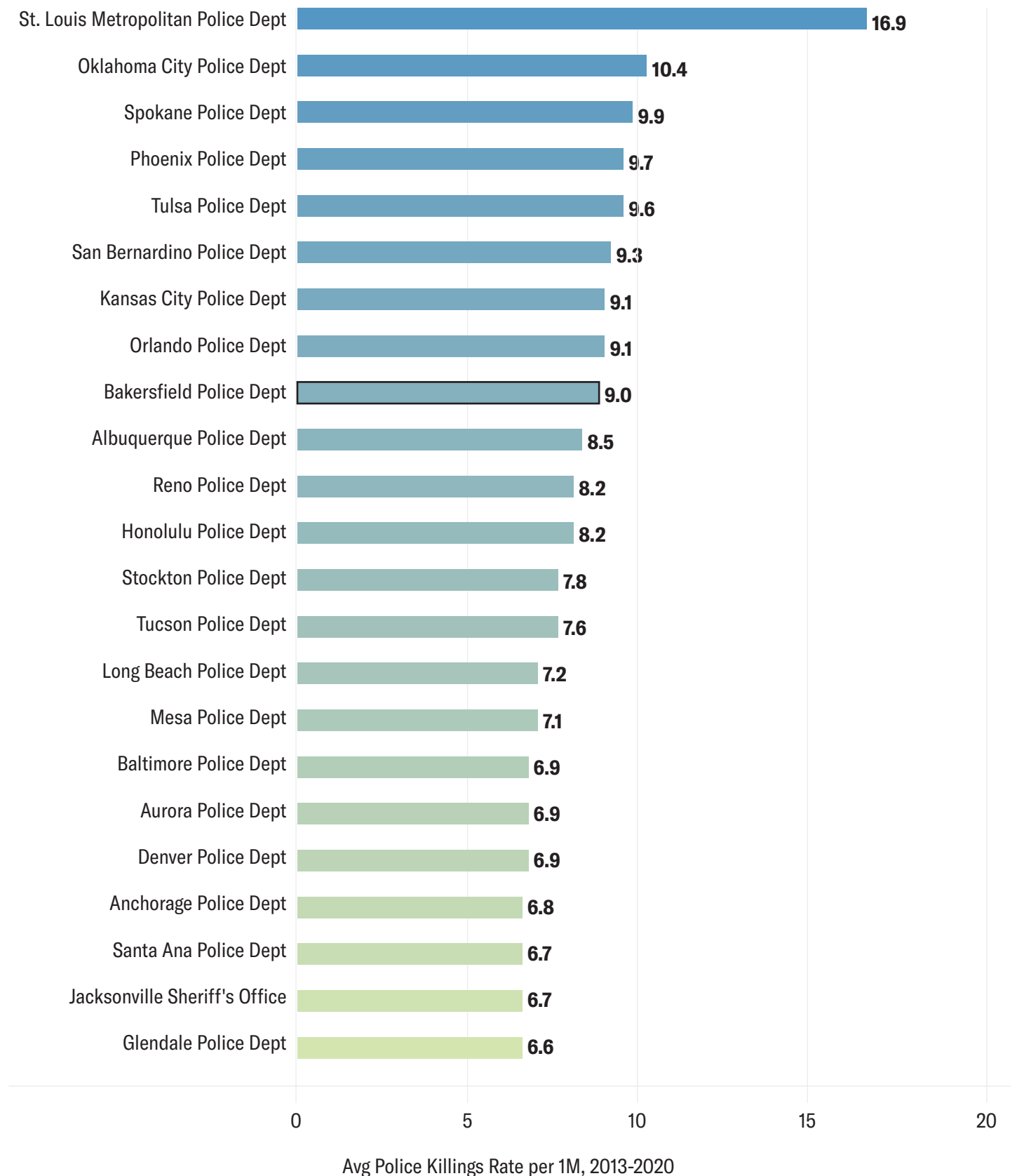
Black Population: **26,238**
 Black People Killed by Police Department: **3**
 Average Annual Rate of Killings of Black People by Police: **14.3**

White Population: **125,841**
 White People Killed by Police Department: **17**
 Average Annual Rate of Killings of White People by Police: **5.0**

Latinx Population: **186,151**
 Latinx People Killed by Police Department: **17**
 Average Annual Rate of Killings of Latinx People by Police: **11.4**

Black People were killed at 2.9x the Rate of White People
Latinx People were killed at 2.3x the Rate of White People

Rate of Police Killings per Population (All States) Data from Jan, 2013 through Dec, 2020



Last Name	First Name	Date	LEA	Fatal	Armed	Race/ Ethnicity	Force Used	Officer History	Mental Illness/ Impairment	Notes on Circumstances	Source of Info
Lake	Ryan	3/18/20	BPD	N	Paintball Gun		Shot, K9		911 stated Lake is developmentally disabled.	Responding to welfare check and keep the peace request. BPD was informed that Ryan may be asleep in residence. BPD encountered Ryan with paintball gun.	News [1]
Vidal	Javier	4/12/20	BPD KCSO CHP	Y	Y	H	Shot				WaPo
Gonzalez Santaca	Everardo	8/17/20	BPD	Y	Knife	H	Shot	Repeat Shooter (Jeffrey Martin)	- Signs of mental illness. - Expressing suicidal thoughts - 311 dispatcher noted Santaca was under the influence H&S		WaPo; News [2]
Ramirez	Jose Marcos	10/13/20	BPD	Y	Knife	H	Shot, Impact Projectile	Repeat Shooter (Randy Petris)	- 911 notes Ramirez was schizophrenic. - Expressed suicidal thoughts.	Shot while fleeing on foot.	WaPo; News [3]
Chagoya	Alejandro	11/10/20	BPD	N	Y		Shot	Repeat Force (Brent Thomas) Repeat Force (Keith Schlecht)		Shot during foot pursuit.	News [4]
Meraz	Eliceo	11/30/20	BPD	N	Flashlight or Phone Charger Pack ^[5]		Shot		- Possible mental health crisis. - Expressed suicidal thoughts.	911 noted individual was circling area in truck, with no intent to flee. Sitting in parked truck, and BPD officer almost immediately fires multiple rounds.	News [6]
Unk	Unk	12/18/20	BPD	Y	Y		Shot, Impact Projectile	Repeat Shooter (Robert Pair) ^[7]	Responding to 911 call for assistance with person expressing suicidal thoughts.	Shot during foot pursuit.	WaPo; News [8]

ABBREVIATIONS

- **LEA:** Law Enforcement Agency
- **Unk:** Unknown
- **WaPo:** “Fatal Force,” The Washington Post (2015-2021), <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/> (database of fatal police shootings)
- **MPV:** Mapping Police Violence, <https://mappingpoliceviolence.org/>
- **Repeat Shooter:** officer involved in more than one shooting
- **Repeat Force:** officer involved in more than one serious use of force

NEWS

- [1] The Bakersfield Californian, *Suspect taken into custody Wednesday night following SWAT standoff, officer firing weapon*, The Bakersfield Californian, (Mar. 19, 2020), https://www.bakersfield.com/news/suspect-taken-into-custody-wednesday-night-following-swat-standoff-officer-firing-weapon/article_24807cc2-69f3-11ea-a685-2b67a2b4d522.html.
- [2] Veronica Morley, *Review Board: BPD officers within departmental policy in fatal Aug. shooting*, 23ABC News Bakersfield, (Jan. 11, 2021), <https://www.turnto23.com/news/crime/review-board-bpd-officer-within-departmental-policy-in-fatal-aug-shooting>.
- [3] 23 ABC News Bakersfield, *BPD releases bodycam footage leading up to a fatal officer involved shooting*, 23 ABC News Bakersfield, (Oct. 27, 2020), <https://www.turnto23.com/news/local-news/bpd-releases-bodycam-footage-leading-up-to-a-fatal-officer-involved-shooting>.
- [4] The Bakersfield Californian, *BPD releases summary, video from police shooting*, The Bakersfield Californian, (Dec. 10, 2020), https://www.bakersfield.com/news/bpd-releases-summary-video-from-police-shooting/article_5bc71c2c-3b35-11eb-a751-cf6f783f7823.html.
- [5] Initially BPD reported that they mistook a flashlight for a firearm. About a month later, BPD retracted this statement and said the item in question was actually a dark colored phone charging pack that the officers believed to be a firearm.
- [6] The Bakersfield Californian, *BPD: Man shot by police on Truxtun Avenue was unarmed*, The Bakersfield Californian, (Dec. 3, 2020), https://www.bakersfield.com/news/bpd-man-shot-by-police-on-truxtun-avenue-was-unarmed/article_baada43e-35c9-11eb-874c-cffbabee2e7b.html (noting a flashlight); The Bakersfield Californian, *Police release footage from Nov. 30 officer-involved shooting on Truxtun Avenue*, The Bakersfield Californian, (Dec. 29, 2020), https://www.bakersfield.com/news/police-release-footage-from-nov-30-officer-involved-shooting-on-truxtun-avenue/article_0e2b039e-4a11-11eb-9f8e-1f97d94ea1db.html (noting dark colored phone charging pack).
- [7] In our 2017 Report we noted that Pair was involved in at least two other officer-involved shootings, in 2009 and 2014. See ACLU, *2017 report*, Appendix III. Pair was also involved in the 2007 fatal shooting of Frank Rogers Ramos, whose son told the 911 dispatcher that his dad was “off his medication.” Ramos was holding a toy gun. Ramos was holding a toy gun. See Jason Kotowski, *Pair cleared in killing of man who held toy gun*, The Bakersfield Californian, (Oct. 13, 2007), https://www.bakersfield.com/archives/pair-cleared-in-killing-of-man-who-held-toy-gun/article_cb66e866-6919-531b-9cfd-0775613eb585.html.
- [8] Jose Franco, Eytan Wallace, *Update: Suspect dead, 1 officer listed as stable at hospital following shooting in Southwest Bakersfield*, KGET, (Dec. 18, 2020), <https://www.kget.com/news/homicide-news/heavy-police-presence-in-southwest-bakersfield/>.

Endnotes

- ¹ ACLU of Southern California, *Patterns & Practices of Police Excessive Force in Kern County, Findings & Recommendations* (2017) [hereinafter “2017 report”], https://www.aclusocal.org/sites/default/files/patterns_practices_police_excessive_force_kern_county_aclu-ca_paper.pdf.
- ² This letter uses the gender-neutral term Latine interchangeably with Latina/o and Hispanic.
- ³ See, e.g., 23ABC News Bakersfield, *Faith in the Valley Kern announces support of DOJ’S investigation of BPD, KCSO*, Dec. 22, 2016, 23ABC NEWS BAKERSFIELD, <https://www.turnto23.com/news/local-news/faith-in-the-valley-kern-announces-support-of-doj-s-investigation-of-bpd-kcso>; The Bakersfield Californian, *Attorney General will investigate BPD, Sheriff’s Office*, Dec. 22, 2016, THE BAKERSFIELD CALIFORNIAN, https://www.bakersfield.com/news/attorney-general-will-investigate-bpd-sheriffs-office/article_5ef47b8b-62d9-536e-b3e4-2464704b060b.html; Faith in the Valley Kern, *Hundreds Take Part in 4th Annual Walk For Justice in Bakersfield*, FAITH IN THE VALLEY KERN BLOG (Mar. 28, 2018), <https://faithinthevalley.org/hundreds-take-part-in-4th-annual-walk-for-justice-in-bakersfield/>.
- ⁴ See, e.g., Stacey Shepard, *Police reforms have been long-sought locally*, THE BAKERSFIELD CALIFORNIAN, (June 28, 2020), https://www.bakersfield.com/news/police-reforms-have-been-long-sought-locally/article_46fdaa26-b67a-11ea-bd46-67e0d4a79c5f.html; Criminal Justice Reform Coalition, Opinion, *Community Voices: Steps towards effective, safe, economic policing*, THE BAKERSFIELD CALIFORNIAN, (June 30, 2020), https://www.bakersfield.com/opinion/community-voices-steps-toward-effective-safe-economic-policing/article_e5b79a46-b747-11ea-aa5f-cfeae0ddb34f.html; Sam Morgen, *Families of those killed by Bakersfield police officers fight to change century-old deadly force law*, THE BAKERSFIELD CALIFORNIAN, (May 11, 2019), https://www.bakersfield.com/news/families-of-those-killed-by-bakersfield-police-officers-fight-to-change-century-old-deadly-force/article_c768c5a8-7371-11e9-a517-3bdb46efb340.html.
- ⁵ BPD’s data reports show canines are deployed in about 1-2% of all force incidents. See Bakersfield Police Department, Internal Affairs Division, Year End Report 2016 [hereinafter BPD Report 2016], available at <https://content.civicplus.com/api/assets/2654c4dd-ca24-481c-bacd-3266a03421be?cache=1800>; Bakersfield Police Department, Internal Affairs Division, Year End Report 2017 [hereinafter BPD Report 2017], available at <https://content.civicplus.com/api/assets/6323328b-16ff-4caf-8ed9-83e07af6f9d3?cache=1800>; Bakersfield Police Department, Internal Affairs Division, Year End Report 2018 [hereinafter BPD Report 2018], available at <https://content.civicplus.com/api/assets/53dc30ec-8e03-4c38-9543-5093504dfae0?cache=1800>; Bakersfield Police Department, Internal Affairs Division, Year End Report 2019 [hereinafter BPD Report 2019] (on file with ACLU); BPD has not released its Year End Report for 2020.
- ⁶ See Cal. Dep’t of Justice, Use of Force Reporting Incident Report (2018) [hereinafter *2018 URSUS Report*]; Cal. Dep’t of Justice, Use of Force Reporting Incident Report (2019), [hereinafter *2019 URSUS Report*]; Cal. Dep’t of Justice, Use of Force Reporting Incident Report (2020), [hereinafter *2020 URSUS Report*]. The URSUS data provides a glimpse of the severe force used by BPD, but fails to paint the whole picture due to missing or limited information, such as: how much time elapsed while BPD held an individual in a carotid hold, how many times an individual was struck by a baton or a taser, etc. Nevertheless, the limited information provided by the URSUS data raises serious concerns about BPD’s use of force.
- ⁷ See ACLU of SoCal, *2017 report* at 4.
- ⁸ See Cal. Dep’t of Justice, *2020 URSUS Report*.
- ⁹ *Id.*
- ¹⁰ *Id.*
- ¹¹ See Cal. Dep’t of Justice, *2019 URSUS Report*.
- ¹² See Cal. Dep’t of Justice, *2020 URSUS Report*.
- ¹³ *Id.* See also ACLU of SoCal, *2017 report* at 4-5.
- ¹⁴ See Cal. Dep’t of Justice, *2018 URSUS Report*; Cal. Dep’t of Justice, *2019 URSUS Report*; Cal. Dep’t of Justice, *2020 URSUS Report*.
- ¹⁵ See Cal. Dep’t of Justice, *2020 URSUS Report*.
- ¹⁶ See Shontel Stewart, *Man’s Best Friend? How Dogs Have Been Used to Oppress African Americans*, MICH. JOURNAL OF RACE AND LAW, Vol. 25 (2020). See also Tyler D. Parry, *Police still use attack dogs against Black Americans*, THE WASHINGTON POST, (Sept. 2, 2020), <https://www.washingtonpost.com/outlook/2020/09/02/police-still-use-attack-dogs-against-black-americans/>.
- ¹⁷ See Jon Swaine & Oliver Laughland, *The County: the story of America’s deadliest police*, THE GUARDIAN (Dec. 1, 2015), <https://www.theguardian.com/us-news/2015/dec/01/the-county-kern-county-deadliest-police-killings>. See also ACLU of SoCal, *2017 report* at 2-3.

- ¹⁸ By our count BPD was involved in 7 officer-involved shootings in 2020, more than double those of the past two years combined. In comparison, Long Beach Police Department was involved in 4 officer-involved shootings in 2020. See <http://www.longbeach.gov/press-release-archive/?cid=6697>. BPD, however, only reported 6 officer-involved shootings in 2020 to the CA-DOJ likely omitting the officer-involved shooting of Javier Vidal, where other law enforcement agencies were involved (i.e., Kern County Sheriff's Office and California Highway Patrol).
- ¹⁹ See Appendix II.
- ²⁰ See, e.g., ACLU of SoCal, 2017 report at 2 ("Over a quarter of BPD's deadly shootings since 2009 killed someone unarmed, and an additional 3 involved someone armed only with only a knife.").
- ²¹ See Cal. Dep't of Justice, 2019 URSUS Report.
- ²² See Appendix III. This is generated from media articles reporting whether an individual was armed or unarmed. This was also cross-referenced with the information BPD reported to CA-DOJ. See Cal. Dep't of Justice, 2020 URSUS Report.
- ²³ *Id.*
- ²⁴ Notably, BPD heavily edits videos of officer-involved shootings, raising concerns that they are self-serving and do not depict the full picture. For example, the video released related to the officer-involved shooting of Ryan Lake, after a 911 dispatcher informed BPD that he had a mental illness and was not taking his medications, does not depict BPD's release of the canine used against Lake. See Bakersfield Police Department, *Officer Involved Shooting Community Bulletin – Veneto Street Shooting March 18, 2020*, YOUTUBE (Apr. 1, 2020), https://www.youtube.com/watch?v=b_91g-la660Q&feature=youtu.be.
- ²⁵ See Cal. Dep't of Justice, 2018 URSUS Report; Cal. Dep't of Justice, 2019 URSUS Report; Cal. Dep't of Justice, 2020 URSUS Report. See also Appendix III.
- ²⁶ See Appendix III (Ryan Lake, developmentally disabled adult noted by 911); (Everardo Gonzalez Santanca, H&S under the influence noted by 911); (Jose Marcos Ramirez, schizophrenic noted by 911); (Unknown 12/18/2020, expressing suicidal thoughts noted by 911).
- ²⁷ See Appendix III. (Everardo Gonzalez Santanca); (Jose Marcos Ramirez); (Eliceo Meraz); (Unknown 12/18/2020).
- ²⁸ See Bakersfield Police Department, *Officer Involved Shooting Community Bulletin – Brundage Lane & P Street August 17, 2020*, YOUTUBE (Aug. 28, 2020), <https://www.youtube.com/watch?v=dG5EjkslvF0>.
- ²⁹ *Id.*
- ³⁰ 23ABC News Bakersfield, *BPD releases bodycam footage leading up to a fatal officer involved shooting*, 23ABC NEWS BAKERSFIELD, (Oct. 27, 2020), <https://www.turnto23.com/news/local-news/bpd-releases-bodycam-footage-leading-up-to-a-fatal-officer-involved-shooting> (quoting Sgt. Robert Pair). In our 2017 report, we noted that Pair has been involved in multiple officer-involved shootings.
- ³¹ See, e.g., ACLU of SoCal, 2017 report at 2-3.
- ³² Sam Morgen, *Vast majority of officer-involved shootings in Bakersfield involve people of color*, THE BAKERSFIELD CALIFORNIAN, (May 20, 2019), https://www.bakersfield.com/news/vast-majority-of-officer-involved-shootings-in-bakersfield-involve-people-of-color/article_2b69ae68-78e6-11e9-814e-a713bec67841.html.
- ³³ *Id.*
- ³⁴ See Cal. Dep't of Justice, 2018 URSUS Report; Cal. Dep't of Justice, 2019 URSUS Report; Cal. Dep't of Justice, 2020 URSUS Report. As noted above, this section includes the officer-involved shooting of Javier Vidal given BPD's involvement. However, it is not reflected in this data point.
- ³⁵ See ACLU of SoCal, 2017 report at 8. BPD's reported data shows that its officers engage in far more severe use of force than much larger departments covering more populous areas, like Stockton Police Department which only reported 3 incidents of severe force in 2019 compared to the 14 BPD reported. See Cal. Dep't of Justice, 2019 URSUS Report.
- ³⁶ See Cal. Dep't of Justice, 2018 URSUS Report.
- ³⁷ *Id.*
- ³⁸ See Cal. Dep't of Justice, 2020 URSUS Report.
- ³⁹ See Cal. Dep't of Justice, 2018 URSUS Report.
- ⁴⁰ See Cal. Dep't of Justice, 2019 URSUS Report.

- ⁴¹ *Id.*
- ⁴² *Id.*
- ⁴³ See Cal. Dep’t of Justice, *2020 URSUS Report*.
- ⁴⁴ See Cal. Dep’t of Justice, *2018 URSUS Report*; Cal. Dep’t of Justice, *2019 URSUS Report*.
- ⁴⁵ See Lisa Pickoof-White, et al., *Bakersfield Police Broke 31 People’s Bones in Four Years. No Officer Has Been Disciplined for It*, KQED, June 16, 2021, <https://www.kqed.org/news/11878013/bakersfield-police-broke-31-peoples-bones-in-four-years-no-officer-has-been-disciplined-for-it>.
- ⁴⁶ *Id.*
- ⁴⁷ See Cal. Dep’t of Justice, *2018 and 2019 URSUS Report*.
- ⁴⁸ See BPD Reports 2018-2019. See also, Mapping Police Violence, Bakersfield Police Department Scorecard, <https://policescorecard.org/ca/police-department/bakersfield> (finding that between 2013 to 2019 BPD made 124,369 arrests where 63% of all arrests made were for low level offenses. Additionally, BPD was found to use more force per arrest than 86% of other similar-sized departments).
- ⁴⁹ See BPD Report 2018. See also Lisa Pickoof-White, et al., *Bakersfield Police Broke 31 People’s Bones in Four Years. No Officer Has Been Disciplined for It*, KQED, June 16, 2021, <https://www.kqed.org/news/11878013/bakersfield-police-broke-31-peoples-bones-in-four-years-no-officer-has-been-disciplined-for-it> (finding that of the 31 cases involving broken bones between 2016 to 2019, people had their “charges dismissed, or never faced charges at all.”).
- ⁵⁰ See BPD Report 2019.
- ⁵¹ See BPD Reports 2018-19.
- ⁵² *Id.*
- ⁵³ *Id.*
- ⁵⁴ See ACLU of SoCal, *2017 report* at 9-10.
- ⁵⁵ *Id.*
- ⁵⁶ *Id.*
- ⁵⁷ *Id.* See also BPD Policy 300.2.3, Use of Force.
- ⁵⁸ *Id.*
- ⁵⁹ *Id.* See also BPD Policy 300.1, Use of Force.
- ⁶⁰ See ACLU of SoCal, *2017 report* at 9-10.
- ⁶¹ A simple and straightforward way to address the discrepancy between the “reasonableness” standard that the Policy privileges at the expense of legal accuracy and the stricter “necessary” standard required by AB 392 is to adopt a “minimal force necessary” standard for all force, as other police departments have done. This approach will avoid putting officers in the conceptually difficult position of having to juggle both the straightforward necessary standard and the complex multifactor balancing test that informs the reasonableness inquiry. Another option is to restructure the policy into two clearly demarcated sections: one addressing non-deadly force, and one addressing deadly force—and to ensure that any general policy statements applying to both sections do not refer to “reasonableness.”
- ⁶² The POST Guidelines similarly provide that agency policies “shall advise officers that, in determining whether deadly force is necessary, they shall evaluate each situation in light of the particular circumstances of each case, and they must use other reasonably available resources and techniques if an objectively reasonable officer would consider it safe and feasible to do so.” POST Guidelines at 16.
- ⁶³ The solution to all of these problems is simple: the policy should directly quote the applicable law.
- ⁶⁴ See ACLU of SoCal, *2017 report* at 12.
- ⁶⁵ See BPD Reports 2018-19.
- ⁶⁶ See ACLU of SoCal, *2017 report* at 9-10.
- ⁶⁷ In 2018, BPD reported 559 use of force incidents, for which there were 948 total charges. In 230 incidents—or 41% of all incidents—“resisting” was the only charge. In the remaining 59% of incidents, resisting charges were likely combined with other charges. Similarly, in 2019, there were 596 total incidents, 1038 charges, 214 of which solely involved a resisting charge (36%); the remaining 64% likely involve a combination of charges.

⁶⁸ See ACLU of SoCal, 2017 report at 11. See also Appendix III.

⁶⁹ Jose Reyes (June 15, 2018), Javier Vidal (April 13, 2020).

⁷⁰ Jesus German Sarabia (information about the officer-involved shooting was obtained through a public records request submitted by the ACLU to BPD). See also Jason Kotowski, Lawmen cleared in incident, THE BAKERSFIELD CALIFORNIAN, (Sep. 8, 2007), https://www.bakersfield.com/news/lawmen-cleared-in-incident/article_b8d5376e-9bfe-59d3-b8b7-3c9e79bf489b.html.

⁷¹ Even after the officers collectively fired over 100 shots, a BPD canine handler released a canine resulting in Mr. Sarabia sustaining 132 wounds—including dog bites, cuts, contusions, and bullets (records on file with the ACLU).

⁷² See Lisa Pickoof-White, et al., *Bakersfield Police Broke 31 People's Bones in Four Years. No Officer Has Been Disciplined for It*, KQED, June 16, 2021, <https://www.kqed.org/news/11878013/bakersfield-police-broke-31-peoples-bones-in-four-years-no-officer-has-been-disciplined-for-it>.

⁷³ *Id.*

⁷⁴ Jessica Harrington, *Take a ride along with Bakersfield Department's gang unit*, 23ABC NEWS BAKERSFIELD, (May 9, 2018), <https://www.turnto23.com/news/local-news/23abc-exclusive-take-a-ride-along-with-bakersfield-police-departments-gang-unit>.

⁷⁵ The Stanford Open Policing Project's map of traffic stops in Bakersfield depicts disproportionate enforcement of Black and brown individuals in "gang areas." See Stanford Open Policing Project, City Traffic Stops – Bakersfield, <https://openpolicing.stanford.edu/explore/> and https://www.bakersfield.com/map-gang-areas-in-bakersfield/pdf_eb3dc5a6-e2cb-11e7-8441-53afe7785ab0.html.

⁷⁶ See, e.g., Marie Pryor, Kim Shayo Buchanan, and Phillip Atiba Goff, *Risky Situations: Sources of Racial Disparity in Police Behavior*, ANNUAL REVIEW OF LAW AND SOCIAL SCIENCE, Vol. 16, 2020, at 346–47, <https://www.annualreviews.org/doi/pdf/10.1146/annurev-lawsocsci-101518-042633>, (Gang investigators rely on "their assumptions about race, neighborhood, clothing . . . which can give rise to unwarranted suspicion of community members who live in neighborhoods where gangs operate." Although 11% to 27% of gang members are estimated to be White, "powerful racial stereotype associates gang membership with Latinx and especially Black boys and young men.").

⁷⁷ See BPD Reports 2018-19.

⁷⁸ See *Rodriguez v. CHP*, No-C-99-2085-JF-EAI (2003), https://www.aclunc.org/sites/default/files/asset_upload_file219_6239.pdf.

⁷⁹ See E. Pierson, C. Simoiu, J. Overgoor, S. Corbett-Davies, D. Jenson, A. Shoemaker, V. Ramachandran, P. Barghouty, C. Phillips, R. Shroff, and S. Goel, *A large-scale analysis of racial disparities in police stops across the United States*, Nature Human Behaviour, Vol. 4, 2020, <https://openpolicing.stanford.edu/data/>.

⁸⁰ See LCCR-SF, *Cited for Being in Plain Sight: How California Polices Being Black, Brown, and Unhoused in Public*, LAWYERS COMMITTEE FOR CIVIL RIGHTS OF SAN FRANCISCO, (2020), https://lccrsf.org/wp-content/uploads/LCCR_CA_Infraction_report_4WEB-1.pdf.

⁸¹ *Id.* at 20-21. See Appendix I.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ See Dupuy, D., Lee, E., Tso M., and Lytle Hernández, K., *Policing the Houseless: Bakersfield, California*, THE MILLION DOLLAR HOODS PROJECT, (2020), <https://ucla.app.box.com/s/wrcx7fozjon0bhlzjdy44dnkqa7ls416>.