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Here is my first annual report of my activities and insights as the City of Santa Rosa's Independent Police Auditor. This report covers the varied tasks I've undertaken, what I've learned, the trends and concerns I've identified and some broader observations. Although this report is directed to you, I've attempted to prepare this so that, with the City Attorney's approval, it can be released publicly.

At every turn, I have met with nothing but good will and open minds, whether from community members or SRPD employees. Given the state of things nationally, no one questions the need for some form of civilian oversight of law enforcement and many people have an abiding interest in discussing what that oversight should look like. Many individuals have been generous in sharing their experiences and perspectives with me.

There has not been a single instance where I was refused access to anything or any place. Uniformly, SRPD and its staff have been nothing but welcoming and accepting of me, my role and my input and suggestions.

Goals as IPA

- Assist SRPD in improving its service to the community
- Respond to complainants and community members with concerns about SRPD
- Oversee and audit SRPD investigations of employee conduct, including of citizen complaints and uses of force
- Establish and maintain communication and credibility with community stakeholders
- Establish and maintain communication and credibility with SRPD staff

Overview of My Activities Through December 2016

During the twelve months (over 610 hours worked) I've been operating as the City's independent auditor of the Santa Rosa Police Department, I've done the following things:

Started to **establish relationships in the community** and with various stakeholders: In the year this report covers, I've met with over a dozen community members, some more than once, who had previously demonstrated an abiding interest in local law enforcement matters, and spoke to an additional two dozen by phone; I've attended seven meetings with groups of concerned community members, mostly on my initiative.

Worked with complainants to address their concerns, provide information and oversee the SRPD's processes for dealing with them: Between extensive and sometimes multiple phone calls, as well as some face to face meetings, I've worked with over twenty community members in this way.

Audited SRPD personnel investigative files, including 88 personnel complaint investigations, 58 internal use of force reviews, 9 pursuit reviews, 6 accident reviews and 3 firearm discharge reviews. Below, I've compiled a list of all the audited files.

Reviewed over 310 body camera videos, of varying lengths from less than five minutes to more than forty-five minutes, mostly in connection with my audits of the below enumerated individual personnel investigation files and use of force reviews.

Rode along, on a monthly basis, with various patrol teams (including one 'sit-along' with dispatch) for a total of 66 hours.

Attended various internal SRPD meetings: In keeping with the Department's intention to be transparent with me, staff has routinely invited me and, during 2016, I attended two command staff meetings, a line supervisors' team meeting, a management team meeting, a field training officers' meeting, a detective sergeants' team meeting, a school resource officers' meeting, downtown enforcement meeting, one promotional and one awards ceremony. In addition, I made a point of attending at least one roll call briefing for each of SRPD's eight patrol teams. There have been other meetings, where SRPD staff sat down with various community partners regarding ongoing issues, which I've attended as well.

Met with these other stakeholders: I've met at least once with each member of the Santa Rosa City Council, interim City Attorney Teresa Stricker, previous City Attorney Caroline Fowler, District Attorney Jill Ravitch, Human Resource Manager Rhonda McKinnon, and IOLERO Director Jerry Threet. I've met with the POA board as a group and with some of its board members individually. I appeared before the Sonoma County Human Rights Commission to explain my role and share my perspectives. I also presented to the Sonoma and Marin County Chiefs regarding SRPD's IPA role.

Files Audited thru December 2016:

Below is a list of all the SRPD personnel investigation files I have audited since beginning work in January.

SRPD has a number of names and abbreviations for its various categories of internal reviews/investigations of employee conduct. In order to minimize confusion, here is a quick articulation of the distinctions, names and abbreviations.

Personnel Complaint (PC) - Any allegation of misconduct committed by an employee, whether coming from internal or external source, constitutes a Personnel Complaint. This category encompasses serious allegations of misconduct (like 'excessive force') as well as lower levels of allegations of bad behavior (like 'rudeness').

Use of Force review (UOF) - Pursuant to SRPD policy, "medium" and "high" levels of uses of force, as well as any instance where physical contact results in a suspect injury, must be reported up the chain of command for review. These are not considered PCs, although a related PC may be generated on the identical incident.

Vehicle Accident (VA) and Vehicle Pursuit (VP) - Similarly, SRPD requires reports for any instance where on-duty employees are involved in accidents or pursuits.

Firearm Discharge (FD) - Apart from firearm discharges that are reported as uses of force, all other firearm discharges, whether accidental or in dispatching gravely wounded animals, are documented and reviewed.

PCs	2016-02	2016-26	2016-43	2016-60
2014-12	2016-03	2016-27	2016-44	2016-61
2014-93	2016-04	2016-28	2016-45	2016-62
2015-48	2016-05	2016-29	2016-46	2016-63
2015-52	2016-06	2016-30	2016-47	2016-64
2015-56	2016-07	2016-31	2016-48	2016-65
2015-58	2016-08	2016-32	2016-49	2016-66
2015-63	2016-09	2016-33	2016-50	2016-67
2015-64	2016-10	2016-34	2016-51	2016-68
2015-66	2016-11	2016-35	2016-52	2016-69
2015-70	2016-12	2016-36	2016-53	2016-70
2015-74	2016-13	2016-37	2016-54	2016-71
2015-87	2016-14	2016-38	2016-55	2016-72
2015-98	2016-15	2016-39	2016-56	2016-73
2015-99	2016-17	2016-40	2016-57	2016-74
2015-101	2016-20	2016-41	2016-58	2016-75
2016-01	2016-24	2016-42	2016-59	2016-76

2016-77	2016-04	2016-24	2016-60	<u>VPs</u>
2016-78	2016-05	2016-25	2016-61	2015-91
2016-82	2016-06	2016-26	2016-77	2016-01
	2016-07	2016-28	2016-100	2016-02
<u>UOFs</u>	2016-08	2016-29	2016-130	2016-03
2015-95	2016-09	2016-30	2016-131	2016-04
2015-96	2016-10	2016-31	2016-141	2016-05
2015-97	2016-13	2016-32	2016-144	2016-06
2015-98	2016-14	2016-33	2016-150	2016-07
2015-100	2016-15	2016-34		2016-12
2015-134	2016-16	2016-44	<u>VAs</u>	
2015-136	2016-17	2016-45	2015-14	
2015-137	2016-18	2016-53	2015-15	<u>FDs</u>
2015-138	2016-19	2016-54	2016-01	2015-08
2015-139	2016-20	2016-55	2016-02	2016-01
2016-01	2016-21	2016-56	2016-03	2016-02
2016-02	2016-22	2016-57	2016-04	
2016-03	2016-23	2016-58		

How I audited these files

In each instance, the most important questions were:

- Does the file document a comprehensive investigation of the triggering allegations, commensurate with the allegations' gravity?
- Is the case analysis supported by the documented investigation?

Typically, in each file audit, I started with the originating materials, whether it was a citizen complaint or a supervisor's memo and then followed the investigator's trail through his work. Each document in the file was examined. I listened to every recorded interview, frequently with a transcript in front of me. I viewed every related video, sometimes searching the database myself, trying to locate missing body worn camera recordings. Finally, I reviewed all the chain of command memos that analyzed the file and reached factual and disciplinary conclusions. Some files were quite small and could be audited in less than 60 minutes; at the other extreme, a few files took a day or more to examine comprehensively. One 2 hour call for service that I audited had well over ten hours of body worn video to watch.

I came away quite impressed with a substantial proportion of the personnel investigations and internal reviews I audited, particularly in the most serious cases, where exhaustive investigative work was evident. While I did identify some shortfalls, they were not the result of poor work; instead, a lack of experience amongst investigators and training gaps challenge the Department's further progress in this area. These concerns will be one of my focuses going forward.

What I've done when I've identified a concern

From time to time, I've run across some aspect of an incident, a department review, or a personnel investigation, where I observed something that troubled me. While my response in each instance has been governed by the specifics of my concern, I always use these incidents as the basis of discussions with the various members of the chain of command.

I try to start from 'not knowing': even though I've worked with law enforcement for well over thirty years, I've never been a peace officer and therefore, for better or worse, I will never be able to see things exactly as an experienced officer will. So, whomever I sit down with first to discuss a concerning incident, I start with "This is how I see this. What do you think? What am I missing?" Whom I start with depends on the gravity of the matter and the degree of certainty I have that I'm actually on to something. Most often, I've started with a lieutenant or sergeant; on rare occasion, I've started with the Chief.

Each of these opportunities, to explore a troubling incident with various SRPD supervisors and managers, has been invaluable to me. It's been a principle way that I've gotten to know them, their thinking and perspectives. As well, they've gotten a sense of who I am, what my perspective is and, importantly, what expertise I bring to the table.

Typically, once I've started on examining one of these concerning incidents, I don't stop discussing and researching it until either I'm 'satisfied' or I've reported my concern to my boss, the City Manager. 'Satisfied' means either (a) 'my concern was on point, partially or totally, and the chain of command is responding in an appropriate way' or (b) 'my concern was misplaced and no further follow-up is necessary'.

Generally, there have been at least five or six separate troubling incidents under discussion during the course of each month's visit. During 2016, while I kept the City Manager appraised of the various serious issues I was seeing (much of which is discussed herein below), there wasn't a single instance where resolution of a concern required his intervention. In all instances, I was 'satisfied' without need of external recourse.

Observations of SRPD

Since January, I've spent hundreds of hours observing the operations of the Santa Rosa Police Department, at a variety of levels and perspectives. As a general rule, I have been very impressed by what I've seen. This is not to say that everything is completely squared away; but compared to other California departments I've worked with, the Santa Rosa community has a lot to be proud of.

Patrol

The heart and soul of every local law enforcement agency is patrol. Patrol represents the primary reason for the existence of police. It is the organization's face that is most familiar

to the community. Patrol, nationally, is the law enforcement branch most often seen as heroic and most often accused of misconduct. For all these reasons, I've paid special attention to patrol.

Between ride alongs each month and auditing hundreds of hours of body worn camera video, the single most surprising observation has been how often SRPD patrol officers are patient, kind and skillful in handling what comes their way. For every video that troubled me at all, there were dozens and dozens that captured wonderful verbal skills, careful uses of force and talented de-escalation tactics.

I've also been very impressed with the patrol sergeants, each of whom I've spent considerable individual time talking over various incidents, concerns and procedures. The vast majority of them are relatively new to the role (less than three years), which is an opportunity wrapped in a challenge. The challenge is that some institutional knowledge, the procedures that govern every obscure thing at the PD, has been lost in the transitions that brought them to today. The opportunity is that new people, of good hearts and nuanced experience, can redesign institutional practices, informed by current trends and issues and unshackled from the patterns of the past. It is a pleasure working with them and watching them move forward.

Every single officer I've ridden with I found to be a fascinating person -- remarkable in their life experiences that bent them toward a career in law enforcement and remarkable in what they've accomplished during their time on the job. Remarkable people, like everyone, are perfectly capable of mistakes and poor conduct; but these people have decided to spend their lives serving the rest of us, in a way that is dangerous and alienating. Without these remarkable people, none of us would be safe.

Yes, there have been about half a dozen incidents and some officer behaviors that I've found troubling. But, apart from the California Penal Code, which makes the specifics of these incidents confidential and prevents me from discussing them, I have found these incidents and behaviors neither part and parcel of the organization's culture nor accepted, approved or condoned by its members. These incidents and behaviors, while they are frequently the actual focus of much of my work, are the exception and not representative of SRPD, its employees or its values. It's very easy to lose sight of all the good, effective work that takes place, as a matter of routine, every day in Santa Rosa.

There hasn't been a single instance where a concern I had was not echoed by SRPD's chain of command. And thus far, there hasn't been a single instance where I disagreed with command staff's handling any of these matters.

Dispatch

My 'sit-along' with SRPD's dispatchers during one shift was eye-opening. Apart from patience with callers on the emergency line, I was intrigued to see how often dispatchers were conducting on-line research during pending calls for service, in order to provide the maximum information to patrol officers. Their multi-tasking skills were very impressive.

I found the experience of sitting through a shift in dispatch instead of riding in a patrol car quite challenging in a certain way: although you'd heard the 911 call, watched the records check and heard the officers being dispatched, you rarely found out what the officers had discovered at the scene or what took place once they arrived. So, dispatchers don't get the 'closure' that responding officers have. Dispatchers have difficult jobs.

Command Staff

Like the patrol sergeants, most of the command staff are relatively new to their positions. The same challenge and opportunity apply here as well. I've found them to be smart and insightful. I've been allowed to sit through a couple of command staff meetings and found them fascinating, primarily to watch the discussions and interactions. These people are learning to work as a team.

The Professional Standards Unit

One of my recommendations from the confidential November 2014 audit report was the creation of a Professional Standards Unit, which would conduct all the more serious personnel investigations, in addition to tracking reports and monitoring various systems. Apart from other considerations, there is too much day-to-day chaos and too many competing urgencies to reasonably expect patrol (or detective) sergeants to stop everything and spend days conducting serious personnel investigations.

Creating something new always has start up issues. Because the agency hasn't had such a unit in anybody's memory, setting it up and figuring out the flow of things can be a struggle. As well, conducting personnel investigations and interviews is different than investigating crimes and interviewing witnesses and suspects; the laws and rules governing each of them are very different, and this, in turn, changes procedures and practices that criminal investigators have grown used to over their entire careers. There can be a lot to learn if you've never done personnel investigations full time.

There have been some rough spots and some problems along the way. Some of the difficulties have been due the PSU sergeant's learning curve, in taking on unfamiliar duties and responsibilities. Other issues have arisen due to a lack of shared understanding about the details of PSU's scope of operation. Things have definitely been improving as staff has been learning together.

I am committed to substantial progress in this area during the next year. Among other steps forward, within twelve months: (a) PSU will have a clear mission, a defined role in the chain of command and a written scope of its activities; (b) PSU's 'error rate', which, for example, has necessitated corrective follow-up interviews, will be halved; (c) PSU will be providing hands-on training to those supervisory sergeants who are conducting lower level personnel investigations.

SRPD Facility

The Santa Rosa Police Department needs a new building. The current facility, over 34 years old, is outmoded, deteriorated and too small for SRPD today. There are too many compromises, forced on the organization by the increasingly inadequate building, that impinge important daily workplace activities. Just for example, the report writing room for patrol officers is way too small for the number of employees assigned to some shifts and is in need of updating. All the bathrooms in the building are marginal at best and need remodeling. The building was designed for a law enforcement agency that existed 35 years ago. I think it's time to start planning for a replacement, because, at best, it will take seven plus years from beginning that work to ribbon cutting.

The State of the Community

I have been very impressed with the Santa Rosa community. Nobody needs me to tell them how great a place this is to live and work, to raise kids and grow old. But the Santa Rosa dream, first envisioned over sixty years ago, is slipping away, because the City itself, and its rapid growth in the past decades, has changed, but community members haven't adjusted to these changes quickly enough to keep up.

As much as many Santa Rosans would rather not have it this way, there isn't a single Santa Rosa community. There may have been in the decade after WWII, but now the community is fractured into separate communities, some of which overlap and some that rarely intersect with each other. In the course of my work, I've spent time with representatives of a number of these communities.

For my narrow purposes, I can view these communities through the lens of their perspectives on local law enforcement. Some find much fault with local law enforcement and view them with suspicion, based on a long series of local law enforcement 'misadventures'; others portray themselves as law enforcement supporters and are happy to praise what is done to keep everyone safe. Most community members find themselves somewhere in between these two extremes, appreciative of all the good work but also concerned about those ugly, troubling incidents that occur from time to time.

Despite some public posturing, once you sit down with these various groups, you discover there is far less difference between them than might first appear. Nobody approves of peace officers who are unnecessarily confrontational or violent and everybody does appreciate all the work being performed to keep us all safe. Nor have I found anybody who asserts he/she expects cops to be perfect. But, to one degree or another, everyone does expect law enforcement to be capable of candid, self-critical analysis and to be willing to admit shortcomings, mistakes and misconduct. As some community members have heard from me, I completely agree with this last view: 'no adult expects authority to be perfect, but every adult expects that authority, when it errs, acknowledges its error and, apologizing, accepts responsibility.'

Another observation I heard identified by different communities was their distinction between the Sonoma County Sheriff's Department and the Santa Rosa Police Department. For many community members, of all different stripes, they perceive the Sheriff's Department as a much bigger concern than SRPD. Even members of the local law enforcement community share this perception, as many have volunteered privately to me.

As Jerry Threet, the IOLERO Director overseeing the Sheriff's Department, and I started our work nearly simultaneously, he and I have repeatedly sat down together to discuss matters of common interest and concern. Jerry has a much harder job than I do, in my opinion, for a variety of reasons. I am committed to providing whatever assistance I can to him.

I remain quite concerned that the conflict that surfaced after Andy Lopez's death has not been resolved and will resurface as soon as another similarly troubling incident occurs. Some of the most polarized people, who still protest on a regular basis, feel like they've never really been heard. Many others, who no longer attend protests, are still dissatisfied and will rejoin the protests after a subsequent event triggers their anger again. The underlying problem has not been solved and is only in remission.

An aspect of this conflict, I think, is actually rooted in much deeper community issues around class and race. So, even though law enforcement actions can trigger a renewal of the conflict, law enforcement cannot address, let alone diffuse, those deeper issues that are presented by their role in poor communities and communities of color. That work, of reconciliation and healing, is for all of us and not just law enforcement.

Even though many Santa Rosans still feel 'connected to the community', most people are only connected to a fraction of the entire Santa Rosa community. This is how Santa Rosa and Sonoma County are fracturing. A community that doesn't have a shared history, a shared reality and a shared vision isn't a single community anymore.

The problems surfaced by the tragedy of Andy Lopez's death cannot be resolved, or even merely addressed, solely by the local law enforcement community. The reaction to his death should put everyone on notice that we have work to do together. If we do not, the conflict in the next cycle will simply begin from where things left off. Nobody wants that.

Specific Issues

Body Worn Cameras

The experience of implementation

This spring, after careful testing, Santa Rosa PD began equipping patrol officers and sergeants with body worn cameras. Because this is such a new step for law enforcement

nationally, there isn't much experience for SRPD to follow behind; instead, they have to figure things out as they go.

Some of the challenges include storage and electronic handling issues. Obviously, these audio/video e-files are of considerable size and they accumulate very fast. For example, between improving download speeds (which impact officers' time) and finding software that makes retrieving and reviewing videos straightforward, the difficulties keep throwing up new challenges. (In fact, as of the writing of this report, some of these technical problems have proven to be insurmountable, to the extent that SRPD is in the process of changing to new camera and software vendors.)

Some of the challenges relate to the way that the collection of these videos changes the work of being a peace officer. As is discussed below, being on camera for a significant portion of your working day takes some getting used to. And, in the rush to get out of the car to begin addressing a call for service, it can take some time to consistently remember to turn on the camera. However, in light of the events taking place around the country and the fact that bystanders record law enforcement activities with increasing frequency, most SRPD officers are grateful for their body worn cameras and would be sorry to have them taken away.

One thing that everyone has seen firsthand is how much more rapidly we can now resolve issues or questions about what happened on a particular call for service. If a picture is worth a thousand words, how many words is a video with audio worth?

The positives

Perhaps no single technological change in the last ten years will have a greater impact on the law enforcement profession than the advent and implementation of body worn cameras for peace officers. It's exciting to witness and participate in this revolution.

For the first decades of my work with law enforcement (where I was a litigator), I came to understand that it was impossible to actually *know* with any certitude exactly how or why a call for service went sideways. Every participant will have their version of what they witnessed, but their various recollections will be inconsistent in their details and nuances, if not the larger themes as well. It's a painful lesson for any litigator, whether civil or criminal, to discover that human beings are deeply flawed recorders of what they witness. Therefore, litigators all get used to trying to work with the blurring grey fog that surrounded the 'facts' of any incident.

The inability to reach into an incident and deeply understand how it unfolded has meant, for example, over the years, that I've had dozens of conversations with various patrol sergeants, trying to figure out why a particular officer is drawing so many citizen complaints. While some understanding was always possible, it was rarely sufficiently detailed to allow us to provide the real insights to the subject officer that would facilitate his/her working the problem successfully.

With body cameras, all that changes. Now, it is frequently possible to point to the exact moment in the video where any given call for service begins to go sideways. This means that a patrol sergeant can now directly coach a struggling officer and that officer can be shown, objectively, how things deteriorated and the ways that he/she might have reached a better outcome. More important, with body cam videos, we can establish an objective baseline sufficient to answer most questions about whether misconduct occurred or not. (Videos are not the resolvers of all incident uncertainties; where someone's state of mind or emotional reaction is important, videos are often not very helpful and can mislead.)

While these videos have already provided conclusive evidence, whether inculpatory or exculpatory, in numerous personnel investigations of allegations of misconduct, I've observed that the single biggest advantage offered is in the area of training/retraining.

There are all sorts of instances where, although there was no misconduct by responding officers, there are opportunities, through video review and critique, to help an officer improve her/his performance. An officer, who finds him/herself struggling with certain types of calls or people, now has the tools at hand to really analyze what happened and why. This is how these cameras are going to change the profession; those officers who are interested in continual improvement now have the chance to get very good indeed at what they do.

The challenges

Time consumed

These videos, with all their benefits and insights, are also consuming hours that patrol staff would otherwise spend on the street. This means that in order to provide the same level of service, SRPD's patrol component will have to be increased to cover the time that staff must spend reviewing videos. Why is this the case?

Quite reasonably, SRPD expects that every officer's use of force, at a minimum, will be reviewed by their supervising sergeant. Such a review must include a close review of all body cam video.¹ Anecdotally, the average use of force incident typically involves three, four or more officers and runs, from start to finish, at least thirty minutes or more. If there are two such uses of force on one shift in one week, which is within the typical range, that patrol sergeant will now have, on average, two to four hours of video to watch that week, in addition to all her/his other supervisory duties.

Similarly, for each incident report that an officer has to write, particularly in instances where she/he has made an arrest, that officer should be viewing her/his video in order to

¹ - I say 'all' because it's already within my experience that some aspects of each call for service is only captured by a single officer's camera. A sergeant, who fails to review the video of every officer at the scene, runs the risk of missing critical information and misunderstanding how or why responding officers handled the call the way they did.

write the report.² An officer who makes two arrests in a shift, which would not be a crazy busy day, will have 60 to 90 minutes of video to watch, in addition to their other duties.

With all this additional time consumed, it becomes tempting to try to shorten the extent or thoroughness of these video reviews. That would be a terrible mistake. There is so much of value to be learned from the videos that they are well worth the time to watch carefully.

The right path forward is going to have to encompass a staffing increase in order to assure the same level of street patrol. While I think it's still too early in the implementation process to start making changes, it's not too early to start planning for them.

Impact on officers of being constantly recorded

It takes some getting used to, the fact of working constantly under the recording eye of one's employer's video camera. Many people would reject a job where the boss recorded one's every move and was prepared to critique you with it at the drop of a hat. For many officers, it certainly represents a substantial alteration of how an average day feels.

All people need oversight, yet everyone hates being overseen. Nobody, not even an off-duty officer, is entirely comfortable with a police car waiting behind them at a stop light; you are being examined by authority, maybe not all that closely, but still you're concerned about what will happen. None of us is perfect, so all of us need oversight. But everyone hates and resents being the target of it. Peace officers are no different.

Without question, peace officers, because they are charged with such critical duties and such enormous powers, should be subject to routine workplace video recording. Bank tellers, store clerks, transit operators and many other categories of employment require employees to live with always-on video recording, and these people provide far less sensitive services than do peace officers. But, these changes, compelled by technological advances, still chafe.

There are up sides for peace officers: a much faster resolution of any allegations of misconduct or poor service and an opportunity to strengthen one's skills and gain a more sophisticated insight into how their actions influence an unfolding call for service.

Years ago, when I started handling the appeals of litigation cases I had successfully tried, I had to read transcripts of my direct and cross examinations of witnesses. I came face to face with how poor I was at asking questions and how often I'd missed an opening

² - After careful consideration, I have concluded that, despite persuasive arguments to the contrary, officers must review their own video before authoring arrest/crime reports. If you accept that all humans, even without any motive to deceive, are imperfect recorders of what they do, experience and observe, then you must also accept that officers cannot be expected to be as accurate as their videos. What then is the point of arresting anyone if the officer can and will routinely be impeached in court with their own body cam video? The only sensible solution is to allow officers to review their own videos in preparing their reports.

provided by a witness's answers. It was sometimes quite agonizing to come to terms with how inadequate my performance had been. But it was the only way I learned to improve.

The difference between what we remember and what the video shows

Given the arc of my professional career, I'm pretty familiar with how subjective our observed realities are. With twelve witnesses to a car accident, I learned as an attorney to expect at least that many distinct versions of the story of what happened. There is an objective reality that unfolds before all of us, but you can't prove it based on the sum of all our subjective recollections.

Even with this prior experience, I have found myself repeatedly surprised in these recent months by how porous, uncertain and inaccurate our honest recollections can be.

I have already handled a number of incidents where a complainant's honest recollection was flatly contradicted by video recordings. I say 'honest' to confine myself to speaking about instances where I felt certain that complainants were working to stick to the truth as they knew and remembered it. Some of this arises from how malleable our recollections are to the impact of the accompanying emotional reaction. Another problem is posed by the gulf between what our reactions *appear to be* on camera and how we are *actually experiencing* the incident internally. As I touched on earlier, video cannot record anyone's state of mind.

In particular, there already have been complained-of incidents where the complainants were offended and put off by how officers handled them. Yet, in viewing the videos in this handful of instances, I saw nothing objectively troubling about the officers' conduct nor could I observe on the video any visual or verbal clues from the complainant that would have signaled to the officers how the complainants actually felt about that was happening. This suggests that, as powerful as these recordings are, they will not be a panacea for all citizen complaints by any means.

Homelessness in Santa Rosa

No Santa Rosan needs me to tell them that the homelessness situation in the community has reached crisis proportions. What I can add are two facts: homeless-related calls for service account for a substantial percentage of the total work that patrol accomplishes each day; and, law enforcement is not the answer to homelessness, any more than law enforcement is the answer to the mental health crisis that underlies much of the homelessness dilemma, both locally and nationally.

In the course of my ride alongs, I've had occasion to interact and/or observe a fair number of the various people that make up the local homeless community. It's been a disturbing experience for me; despite whatever it was that triggered a peace officer's presence, they

were all recognizable human beings, lost in the world and lost in their lives. A couple of incidents, including some from Santa Cruz, will live in my memory for a long time.

I have observed some very compassionate interventions, by SRPD, HOST and Catholic Charities, things that would make everyone proud. It remains an enormous challenge.

SPRD is tracking homelessness-related calls for service and is in the process of quantifying the magnitude of this specific impact. Anecdotally, it seems like as much as half, if not more, of all the calls for service I've seen on ride-alongs have been homeless related. The community, indeed California, needs a more effective solution than law enforcement to resolve this.³

There's a lot going on now in Santa Rosa and Sonoma County to more deeply understand and more effectively respond to local homelessness. Rather than detail here all that's taking place, I encourage community members with an abiding interest in this area to take advantage of what's available online to better grasp the problem and the solutions being pursued. Both the City and the County have web pages devoted to available community based homeless services and information about the region's homeless population. In particular, interested community members can access, from either the City or the County websites, the [*2016 Sonoma County Homeless Point-In-Time Census & Survey*](#) to gain a better understanding of the nature of the problem locally. As well, I encourage all community members to consider volunteering with one or more of the local agencies and public/private partnerships that are providing the homeless all types of services.

My point in articulating all of this is: the problem of homelessness is causing the community, through SRPD's patrol and enforcement activities, to consume all sorts of resources, very little of which is actually fixing anything, resources that might be more meaningfully employed elsewhere.

Please Complain If You're Dissatisfied

One of the common discussions amongst law enforcement professionals is: for each complaint received, how many other dissatisfied community members who don't complain are there? It's not unusual for their estimate to be that for each complaint received, there are probably ten or more complaints that are never filed. To me, those never filed complaints are missed opportunities to remediate incidents that troubled community members.

³ - Law enforcement has always been intended to deter crimes, catch criminals and keep the public peace. Law enforcement does not provide housing, food or services, so its impact on homelessness is only to turf it around. This is the equivalent of using a broom to push flooding water around a basement. Without services to help the homeless escape their situation, the problem will remain.

The larger the department and the longer the chain of command, the harder it is for managers to accurately detect and track undesirable conduct by line personnel. Law enforcement managers need the community's assistance, from those who are on the receiving end of the department's services, to effectively do this.

Therefore, I encourage every community member to contact me as the Independent Police Auditor or the Santa Rosa Police Department directly whenever they are dissatisfied with how any member of the department conducts themselves when on-duty. More generally, in any instance where you observe or are on the receiving end of any apparent inappropriate use of force by any peace officer, report it to that officer's employing agency.

California law enforcement agencies are required by State law to receive and investigate all citizen complaints against its personnel. Even if you do not trust an agency to conduct a fair investigation, make the citizen complaint.

Making a citizen complaint is not hard. You need do no more than write a letter, in which you describe in detail the facts, date and time of the incident, identify witnesses and involved officers (if you can), and, if it involved the Santa Rosa Police Department, email it to me (Aaronson@sonic.net), the City Manager, the City Attorney or the Chief of Police. If you are not fluent in English, write in your native language.

Cooperate with investigators who call to interview you about your complaint. Follow up to find out what the status of the complaint's investigation is. If no one is willing to bear witness, problems and shortcomings will remain unresolved.

In California, community members also have the right to video and audio record peace officers engaged in their official duties, so long as you are not interfering with those peace officers or creating a public hazard. I have long encouraged activists in Santa Cruz and Davis to carry and use video recorders. I now offer the same encouragement to Santa Rosa community members who have concerns about local law enforcement. Contemporaneous recordings are always compelling evidence of what did or did not occur. Now that our cell phones are capable of sophisticated video recording, it is so much easier to do this.

What Community Members Should Know about Responding to Officers' Orders

For better or worse, in order to render peace officers effective protectors of the public's welfare, our laws have given them enormous 'on-scene' powers to direct and control citizens and suspects. In certain circumstances, officers are legally entitled to 'tell us what to do'. In those circumstances, they are also empowered to insist. Faced with our refusal to cooperate, they can compel us, even to the extent that they may use force on us.

The vast majority of law enforcement uses of force, here in Santa Rosa as well as everywhere else, are in response to a stated or perceived refusals to cooperate. In all but

the most serious circumstances, officers are required to request cooperation, by giving clear orders and directions, before using force.

There are times that, once better information is obtained, it becomes evident that an officer's order in a particular instance was not appropriate or may not have been legal. For example, this is how motions to suppress evidence can be granted in the prosecution of criminal matters.

Despite this, I urge all community members to routinely cooperate with peace officers who are engaged in their law enforcement duties. The street is not the place to try to engage officers in heated verbal disputes. Nor is it ever appropriate to try to physically prevent them from taking you or someone else into custody. Such activities by citizens typically only lead to escalations of force, escalations that frequently will be sanctioned by the courts afterwards.

If you find yourself subject to law enforcement action and you disagree with it or how the officers are conducting themselves, you will have access to plenty of remedies later on. You can sue civilly, you can fight the criminal charges, you can make citizen complaints, you can contact city government, the county grand jury or the State or Federal attorneys general. But it is a terrible idea to get into a verbal or physical confrontation at the scene with peace officers. You can be innocent of the underlying charges and still be convicted of refusing to cooperate with peace officers, interfering in their investigation and/or resisting arrest.

Consider Doing a Ride Along with Santa Rosa PD

If you find yourself interested in a better understanding the nature of law enforcement in your community, consider requesting to ride along with Santa Rosa PD. It is amazing how different the world looks through a patrol car windshield.

One of the difficulties in trying to close the gap between police departments and the communities they serve is the fact that peace officers, working routine patrol, have an experience of the community that's hard to grasp if you haven't spent time in a patrol car yourself. If you have the time and the curiosity, a ride along will be eye opening.

More important: if you're unhappy with the state of law enforcement in this country, consider becoming part of the solution by becoming a peace officer. A private fascination of mine is how different all the people are who become cops; you'd be surprised at how varied are the backgrounds and personal histories of Santa Rosa peace officers. In that variety is a core strength of the organization. Make the organization stronger by joining them yourself.

Going forward

Based on my experience thus far, I intend to go forward as Santa Rosa's IPA more or less occupied with the same tasks: meeting with and listening to concerned community members; working with complainants to help address their concerns; auditing and reviewing SRPD investigations of employee conduct, its own uses of force and other critical incidents; meeting with and listening to other stakeholders; meeting with, listening to and providing feedback to SRPD staff and its chain of command.

In the coming year, I intend to place particular efforts into expanding my community contacts and the community's awareness of my role and how I can be of assistance to its impacted members.

Conclusion

Based on my observations and auditing thus far, I can say that the Santa Rosa Police Department is, in many respects, exemplary. Nearly everywhere I've looked, I've been impressed. There's a lot of hard work, skillfully done, that is more or less invisible from the outside.

Yes, I've come across some troubling incidents. For the most part, I was always pleased to observe the organization's response to those matters. The department is doing an admirable job of investigating allegations of misconduct by its employees and reviewing uses of force. The quality of these investigations and reviews ran from 'sufficient' to 'outstanding', with the average approaching 'excellent'. With rare exceptions, the work is being completed well within mandatory and desirable timeframes. With rare exception, the analyses are thorough and compelling. There is an opportunity, however, to tighten up procedures and practices and thereby strengthen the work product across the board.

I am very lucky to have this work before me. There are challenges but there's opportunity as well. And everyone, in the department and in the community, has been supportive and helpful. It's a fascinating time to be doing this work and I can't think of a better, more interesting place to do it than in Santa Rosa. Thank you all for entrusting me with this.

Please do not hesitate to contact me with any questions or concerns.

Dated: *March 30, 2017*

Robert H. Aaronson
Robert H. Aaronson
Independent Police Auditor
City of Santa Rosa