



U.S. Department of Justice

Civil Rights Division

TEP:RLA:JMS:AMS:BOT:TCA:mrb
DJ 207-17-4

Special Litigation Section - PHB
950 Pennsylvania Ave, NW
Washington DC 20530

SEP 04 2012

Sheriff David Morgan
Escambia County Sheriff's Office
1700 West Leonard Street
Pensacola, Florida 32501

Re: Investigation of the Escambia County Sheriff's Office
Technical Assistance Letter

Dear Sheriff Morgan:

The Civil Rights Division of the United States Department of Justice ("DOJ") has concluded its investigation of the Escambia County Sheriff's Office ("ECSO").¹ At the outset, we would like to thank you for your cooperation with our investigation. We commend you and your staff, not only for the openness you have shown us, but also for proactively attempting to address the concerns identified by our experts during our tours and in subsequent outreach.²

While we are closing our investigation without a finding, we did conclude that there are systemic deficiencies relating to the way in which ECSO officers use force that, if left unaddressed, may result in civil rights violations. The following recommendations, if implemented, will reduce the risk of future violations.

REMEDIAL MEASURES AND TECHNICAL ASSISTANCE

I. ECSO's Use of Force Policies.

Our experts found ECSO's policies were lacking in accuracy, detail, and clarity.³ Such shortcomings can lead to inappropriate applications of force. ECSO should develop a new set of well crafted use of force policies that give deputies a clear understanding of when and how to use force, and that assist supervisors in guiding the work of the deputies under their command.

¹ We also commenced a concurrent investigation regarding alleged incidents at the Escambia County Jail pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997. We will communicate those results separately.

² While DOJ is closing its investigation, we reserve the right to reopen the investigation should new evidence of a pattern or practice of constitutional violations emerge.

³ We based our review on both ECSO's newly revised General Order, "Force-Response to Resistance", Number 337 ("GO 337") and on the prior use of force policy, "Use of Force, Weapons, and Distraction Devices," Number 06-02 ("GO 06-02").

Effective policies not only serve the community, they also serve ECSO's deputies by giving them the information they need to carry out their duties without running afoul of the law.

A. ECSO's Policies Should Accurately State the Constitutional Standard for Permissible Force.

ECSO's current use of force policy applies the wrong use of force standard. Under the section titled "Levels of Control," ECSO inaccurately states that the level of force employed by a deputy is "dependent upon the *deputy's perception* of the resistance and danger of that resistance, and whether that resistance is placing the deputy or another in jeopardy of serious injury or death." See GO 337.4 (italics added). In fact, the appropriate standard by which to judge the necessity of force is the Fourth Amendment's more demanding *objectively reasonable* standard. See Graham v. Connor, 490 U.S. 386, 394 (1989). Under that standard, the deputy's subjective perception is irrelevant, and the deputy's use of force is judged by objective criteria such as whether the suspect actually presents an immediate safety threat to the deputy or others, and whether the suspect is actively resisting or attempting to evade arrest. Id. at 396.

The subjective standard ECSO employs in its policies provides more leeway to use force than the constitutional standard, thereby creating a misperception among ECSO deputies that may lead them to using excessive force. We urge you to revise ECSO's use of force policy so that it accurately describes the constitutional standard. The revised policy should also expressly reference seminal Fourth Amendment cases such as Graham and Tennessee v. Garner, 471 U.S. 1 (1985).

B. ECSO Should Develop a Crowd Control Policy.

ECSO does not have, but needs, a crowd control policy. We found that in recent years, ECSO deputies have used unreasonable amounts of force when wading into difficult crowd control situations at Escambia's beaches and bars. Policy guidelines will help. The policy should emphasize that, absent exigent circumstances, a supervisor must be on the scene and directly involved in formulating, implementing, and supervising a deployment plan before deputies use force in a crowd control situation. The policy should require the supervisor to assess whether enough deputies are present prior ordering them to control a crowd.

C. ECSO's Policies Should Include Additional Guidance Concerning De-Escalation and When Not to Use Force.

ECSO policies should be improved to provide deputies with better guidance concerning de-escalation and when not to use force. Presently, ECSO's policy simply states that, "Reasonable force may be utilized in situations which cannot be controlled otherwise. However, other reasonable alternatives should be exhausted or clearly be ineffective prior to the application of force." See GO 337.2. This guidance regarding de-escalation can be significantly improved. First, ECSO policy should explicitly require that deputies use the lowest level of force objectively necessary in light of the facts and circumstances confronting them. Second, ECSO policy should state that deputies should not use force against individuals who are already under control or who are only engaged in passive resistance. Passive resistance means non-compliance with officer commands that is nonviolent and includes bracing, tensing, or verbally signaling an

intention to avoid being taken into custody. Third, the policy should emphasize that, where possible, deputies should attempt to de-escalate and give subjects the opportunity to submit to arrest before using force. Only after de-escalation is unsuccessful, or cannot be used due to a present danger to deputies or others, should force be employed. Fourth, the policy should clearly detail types of control methods that do not involve use of force that can be used to de-escalate. Those control methods include verbal commands, effectively making actors aware of deputy presence, and the use of "soft hand" techniques (i.e., using hands to *escort* rather than using force to achieve compliance). Fifth, ECSO's use of force policy should include de-escalation techniques appropriate to interactions with individuals who are under the influence of drugs or alcohol or who have mental illness. The policy should provide guidance on both how to identify such individuals, as well as how to properly interact with them.

D. ECSO's Policies Should Include a More Effective and Detailed Use of Force Matrix.

When properly designed and implemented, a use of force matrix can educate deputies on how to identify appropriate levels of force to use.⁴ Unfortunately, ECSO's current matrix is incomplete. It fails to describe how the various force options may be used, how the various applications of those options affect their placement in the use of force progression, and what level of force is appropriate in response to a suspect's resistance. In a section titled "Forms of Resistance," the policy describes various ways subjects typically resist. GO 337.3 at 4. In a subsequent section, "Levels of Control," the policy describes various techniques to control subjects. GO 337.4 at 4. The policy does not, however, link these two sections to provide deputies with guidance on appropriate techniques to employ when faced with a specific form of resistance. Accordingly, a deputy must read the two sections and intuit from the terminology used that the two policies are linked. The vagueness in these policies may result in misapplication.

We recommend that ECSO develop a single policy dedicated to the use of force matrix that identifies and explains the various force and non-force options for controlling individuals, the application of those options, and the level of force appropriate to address different levels of resistance. The matrix should include non-force techniques. In other words, a use of force matrix should highlight circumstances where deputies should rely on alternatives to force, such as deputy presence, verbal commands, de-escalation strategies, and the use of "soft hands" techniques. The matrix should also detail the types of less-lethal force tools that ECSO has authorized its deputies to use and how and when they should be used. The guidance should indicate when a deputy should use one less-lethal force tool instead of another. It should also note the potential lethality associated with these tools if misapplied and how to avoid their

⁴ A use of force matrix is a guide that ranks uses of force, ranging from de-escalation techniques to deadly force, that a deputy may employ to gain control and compliance of a suspect in an appropriate and justified manner. The level of force that is appropriate depends upon the reaction of the subject. DOJ does not take a position on whether police departments should use such matrices, but is providing technical assistance here as to how a matrix should be designed if a department elects to use one.

misapplication. Finally, the matrix should provide clear guidance on when deadly force may be used, and identify the different types of force that may constitute deadly force.⁵

E. ECSO Should Adopt New Use of Force Policies for Firearms, Canines, Electronic Control Weapons (“ECW”),⁶ and Chemical Agents.

In addition to revising its general use of force policies, ECSO should develop use of force policies for each of its authorized force tools.⁷ We have suggestions for policies for four of those tools: ECWs, firearms, canines, and chemical agents.

ECWs: Since roughly 2004, there have been allegations of ECSO deputies misusing ECWs. These allegations are consistent with the observations of our experts. They found that ECSO deputies are still too quick to resort to using ECWs, often employing them in the course of seizing passive subjects.

To address the problem of ECW misuse, ECSO will need to provide additional guidance to its deputies by strengthening its ECW policy. The new policy should explicitly state: (1) that a deputy may not use an ECW on a passive or restrained subject, and may only use the weapon when encountering a subject who is either actively resisting or posing a threat to the safety of the deputy or others; (2) that a deputy may not use an ECW on a subject who appears to or is known to suffer from a neuromuscular disorder (e.g., epilepsy or muscular dystrophy), or a heart problem; (3) that a deputy may only target his ECW (i.e., point the red targeting light at a subject) when the deputy actually intends to use the ECW, and the use would be objectively reasonable; (4) that absent exigent circumstances, a deputy must announce his intent to deploy an ECW (e.g., “Stop or I will Taser you”); (5) that an ECW should only be deployed when a backup deputy is available; (6) that no more than one deputy should activate an ECW against a subject at any one time; (7) that restraints used after the deployment of an ECW must not impair a subject’s breathing; and (8) that when a deputy deploys his ECW on a subject three or more times, the subject must automatically be taken to a medical facility.

⁵ ECSO’s use of force matrix is not the only instance where more can be done to present policies in a more accessible manner to ECSO deputies. For example, with regard to the pivotal issue of deadly force, guidance is scattered throughout the policy. The term “deadly force” is defined in one section of the policy, GO 337 at 25-26, explained in another titled “Deadly Force,” *id.* at 3, and further explained in yet another section titled “Levels of Control.” *Id.* at 6. The multiple references can create confusion which in turn may lead to the misapplication of the policy. We recommend a single policy on the use of deadly force or a single subsection within a general use of force policy that covers all of the concepts associated with deadly force.

⁶ An ECW is an electro-muscular disruption technology weapon commonly known by the brand name TASER, or by the term “stun gun.” This weapon can be used in two ways. Specifically, the weapon can be used in close proximity by direct contact with the suspect (“touch mode” or “drive mode”), and it can also be used at a distance through the use of probes (“probe mode”). When the probes make contact with the target, the ECW transmits electrical pulses along wires and into the body of the target. This results in an immediate loss of the person’s neuromuscular control and the ability to perform coordinated actions.

⁷ ECSO already has a canine policy. *See* GO 03-59.

Canines: Although ECSO's canine program has improved considerably in a number of areas since the commencement of our investigation, deputies still need additional policy guidance on this particular force tool. The current policy says very little about when and how canines should be used, stating only: "canine use will be limited to felonies or situations in which circumstances lead to a reasonable concern for the threat of violence or failure to apprehend the subject poses an imminent danger. . . ." GO 505.6 at 5.

More detailed guidance on the use of canines will enable ECSO to better regulate the conduct of its officers and limit its liability if a canine handler deploys an animal in an unsafe manner. We recommend that the policy detail the factors a canine handler should consider prior to deploying a canine. The policy should also clearly state: (1) that canine use is prohibited against crowds unless there is reason to believe there is a reasonable risk of violence or a riot; (2) that a canine handler is responsible for an animal's actions whether or not the canine is on a lead; (3) that, absent exigent circumstances, a deputy must obtain permission from his or her supervisor prior to deploying a canine; and (4) that, absent exigent circumstances, a handler may only allow a dog to bite a subject if the handler reasonably believes the subject has committed or is about to commit a violent crime.

Firearms: ECSO's firearm policy should be reorganized so that the most important aspects of the policy are addressed first. Currently, ECSO's firearm policy is organized in alphabetical order by topic area, with accidental shooting prefaced at the start of the policy, while guidance on firearm use, including drawing and discharge, is located on the second and third pages of the six page policy. GO 337.10 at 9-14. Also, the firearm policy fails to reference ECSO's deadly force policy, cite applicable legal standards, or address critical areas relating to the policy's application in the field. Accordingly, we recommend that ECSO develop a clear policy for authorized firearm deployment, and that the policy address legal standards on the use of deadly force.

Impact Weapons and Munitions: Current policy is silent as to which impact weapons and munitions ECSO deputies may use. See GO 06-02.7. While it is entirely appropriate for ECSO policy to provide deputies with some measure of discretion as to their choice of impact weapons and munitions to ensure deputies have the appropriate training and certification for their use, we recommend that ECSO policy limits a deputy's choice of impact weapons and munitions to listed items. Doing so will enable supervisors to prevent unapproved weapons from being carried or used on duty.

The policy should also clearly identify those impact munitions and weapons that are potentially lethal, and prohibit their use absent justification for the use of deadly force. For example, rubber bullets should only be used when using deadly force is objectively reasonable. Also, in addition to providing guidance as to when deadly force can be used, the policy should recognize that deputies should seek to use the least lethal force tool available to them.

OC Spray: While ECSO's discussion of chemical agents is generally adequate, we recommend that, when practical, ECSO require officers to make all attempts to warn subjects prior to deploying OC spray. We also recommend that the policy also set a maximum number of bursts and a minimum distance for using OC spray. Lastly, ECSO should have a policy of

weighing the chemical agent canister to determine whether actual use is consistent with reported amounts.

II. Reporting Use of Force.

For a police department to effectively manage its deputies' uses of force, its deputies must generate reports that appropriately detail how they and their colleagues use force while in the field. For example, during our last tour, we spoke to inmates who had been bitten by ECSO canines (including one inmate who had been bitten in the neck), but when we reviewed the relevant incident reports, we found that they did not include accurate accounts of the injuries the inmates' had sustained, nor did they in any way include the inmates' accounts of how they received their injuries. In other words, ECSO did not have the information it needed to effectively manage its deputies. Quality reports enable supervisors to determine whether anyone under their command is using excessive or inappropriate force. In turn, this information can be used to promote accountability, to improve supervision of deputy behavior, and to identify deputy training needs.

A. Deputies Should Prepare Use of Force Reports Both When Using Force and When Witnessing Force Used By Another Deputy.

Under ECSO policy, only the deputy who uses force or a duty supervisor must fill out a use of force report. This policy can lead to underreporting of force. We recommend that every officer witnessing a use of force incident completes a separate report describing his or her involvement in the incident and what he or she observed. Accordingly, we strongly recommend that ECSO revise its policy to make clear the basic requirement that all deputies witnessing a use of force incident complete individual use of force reports, and honestly report and describe all uses of physical or instrumental force beyond unresisted handcuffing. This policy change, if implemented and paired with the effective review of use of force reports, will go a long way toward enabling ECSO to identify officers inclined to use too much force.

Under ECSO policy, a duty supervisor may submit a use of force report on behalf of a deputy who is unable to complete one prior to the end of duty. This exception is problematic. A duty supervisor's completion of the report will not provide command staff with a complete picture of what occurred. While the duty supervisor may be able to describe the incident, critical information will be missed. Moreover, ECSO's use of force policy does not offer any guidance on how the duty supervisor is expected to complete the form. For example, in the deputy's absence, the policy does not require the supervisor to interview witnesses, suspects, or other officers, or to conduct an investigation that would allow the supervisor to adequately complete the form. Accordingly, we recommend that ECSO change its policy and allow no exceptions to the rule that deputies must prepare use of force reports when they either use force or witness force being used by their colleagues. Deputies should submit their use of force reports within twenty-four hours of the end of the shift in which the use of force incident occurred. Alternative means of documenting the use of force should also be sanctioned (i.e., dictation, etc.), where appropriate.

B. ECSO Should Provide Deputies With Guidance on How to Clearly Report and Collect Data on Use of Force.

The current policy offers very little guidance on how deputies should go about reporting the use of force. ECSO employs two use of force forms: (1) an Offense Report Form that notifies command that force has been used and; (2) a Suspect Resistance Report that details the use of force. The policy is vague on the importance of the two forms and is unclear on how the two differ. See generally GO 337. We recommend that ECSO policy clarify which form should be used for reporting force. The use of force report should be separate from an incident or arrest report. It should have an identification number that can be easily cross-referenced and matched to all other relevant documents, such as arrest reports, injury forms, incident reports, and booking information related to the same incident or event.

By policy, the use of force report should include: (1) basic information such as: name, date, race, gender, and age of the subject of the use of force; (2) names and contact information of all civilian witnesses on the scene; (3) names of all ECSO deputies and supervisors present at the scene; (4) information on whether the subject was restrained when the deputy used force; (5) a detailed narrative that includes the basis for the contact with the subject, the actions of the subject and/or circumstances prompting each use of force, a precise description of the force used by the deputy, and the injuries sustained by the subject and deputy; and (6) contemporaneous photographs or videotapes taken of all injuries at the earliest practicable opportunity. In addition to preparing use of force reports, deputies should make more use of in-car video, and notify their supervisors immediately following all uses of force.

III. Supervising Use of Force.

ECSO has had some glaring failures in supervising its deputies' uses of force. Take, for example, the well publicized case of the ECSO deputy who was successfully prosecuted by federal authorities for using excessive force when deploying his ECW on a woman who was not actively resisting arrest. Before his prosecution, the same deputy had had a history of misusing his ECW, and was nonetheless described as a "role model" in an evaluation. Instead of commending the deputy, ECSO should have given him the counseling, guidance, and training he needed. Had it done so, ECSO may have avoided the prosecution of one of its own. To avoid failures of supervision in the future, we recommend the following systemic reforms:

A. First-Line Supervisors Should Conduct On-Site Investigations of Use of Force Incidents and Then Prepare a Separate Oversight Report.

Under current policy, very little is said about the first-line supervisor's role in ensuring appropriate reporting of uses of force. This is unfortunate because first-line supervisors have a critical role to play when it comes to investigating, analyzing, and documenting how deputies under their command use force.

We strongly urge you to develop policies that create the following reporting obligations for ECSO's first-line supervisors when force is used by deputies. First, one of the first-line supervisor's core responsibilities should be to make sure that all those under his or her command submit complete use of force reports when required to do so. Second, upon being notified of an

incident involving use of force going beyond the amount of force used in the course of an unresisted handcuffing, supervisors should promptly respond to the scene and conduct a use of force oversight investigation. The investigation should include: examining the subject for injury; interviewing the subject; ensuring that the subject receives needed medical attention; and interviewing all individuals, including civilians, who were on the scene and any individuals who could have witnessed the incident. Third, the supervisor should prepare his own oversight report on the incident after evaluating all of the information obtained from witnesses and contained in relevant use of force reports. The report should include an assessment of whether the force used was objectively reasonable and whether deputies complied with ECSO policies. The report should also include a narrative demonstrating that the supervisor has reviewed relevant evidence, and made credibility determinations where witnesses have provided contradictory statements.

We recommend that a supervisor not be involved in reviewing a use of force incident or preparing the oversight report for an incident if he or she was directly involved in the incident or authorized conduct leading to the use of force. Instead, such a supervisor should prepare a standard use of force report, and the responsibilities for reviewing the incident and preparing an oversight report should be transferred up the chain of command to the supervisor's immediate superior.

B. Supervisors Should Regularly Review Various Aspects of Deputy Conduct.

For a supervisor to manage his subordinate's use of force, in addition to focusing on incidents involving use of force, a supervisor needs to obtain a broader sense of how his subordinate is conducting himself in the field. Different aspects of police conduct are interrelated – for example, a deputy who stops a motorist without cause, runs the risk of ending up in an altercation that in turn could lead to excessive force being used. Therefore, in addition to reviewing a subordinate deputy's uses of force, a supervisor must also review a variety of other data points relating to the deputy's conduct on at least a monthly basis, including: (1) arrest records to determine whether arrests are made with probable cause; (2) stop records to determine whether stops are being made with reasonable suspicion; (3) a sample of mobile video recordings; and (4) citizen complaints filed against an officer. We also recommend that ECSO's policy require supervisors to review and approve all arrest reports and search-and-seizure reports, and record their approval on the arrest or incident reports by handwritten or electronic signature.

C. ECSO Should Implement an Effective Early Warning System.⁸

Until recently, ECSO had nothing resembling a computer-based early warning system ("EWS") for maintaining, integrating, and retrieving information for the effective supervision and management of ECSO personnel. After our tour, ECSO recognized this weakness and purchased database software that, when properly implemented and utilized, should provide it with this important capability. We commend ECSO for moving forward with developing an

⁸ An early warning system is a data-based police management tool designed to identify potentially problematic behavior and allow early intervention to address misconduct and assist in identifying deficiencies in supervision, management, and policies.

EWS. The system will provide ECSO with a quantitative measure of its progress as a law enforcement agency.

To make the system effective, ECSO should quickly implement a series of data collection procedures. The information should be collected for each deputy, and should include: non-sustained complaints and complaints prior to final disposition, disciplinary and other supervisory corrective measures, uses of force, ECW deployments, arrests and charges, searches and seizures, service calls, training, awards and commendations, sick leave, civil lawsuits, and other items relevant to an officer's conduct. The effective gathering of data will require the support of other County departments. The County Attorney's Office should report to ECSO when a deputy is named in a civil complaint relating to policing work. Similarly, the County Attorney's Office should report to ECSO on any matters relating to a deputy's integrity or credibility.

ECSO should not use the EWS to gather information for the purpose of disciplining individual officers. Instead, the focus should be on using EWS data to regularly and proactively: (1) promote best professional police practices; (2) improve management accountability; (3) manage the risk of police misconduct; (4) evaluate and audit the performance of all levels of the Sheriff's Office, its members, and its units, on an ongoing basis; and (5) evaluate and assess the effectiveness of training and policy. ECSO should require supervisors, including command staff, to regularly review this data for every deputy they supervise. We recommend that supervisors use peer comparator data when they review their subordinates' data. Additionally, the policy should provide explicit guidance to supervisors to ensure that patterns of possible misconduct are identified, analyzed, and addressed properly by command staff. The aim of this process is to give supervisors valuable information that, if received early, could correct potential problems before misconduct develops. The process can also be used to promote, commend, or otherwise recognize outstanding officer performance.

To effectively use the EWS as a predictive model, the early warning system must have defined triggers for management intervention. The policy implementing these recommendations should also establish guidelines regarding specific events that will trigger an additional supervisory review, such as a specific number of uses of force or citizen complaints within a defined period. The trigger should be low enough to ensure the review of a meaningful number of officers each year. Once a deputy has been selected for this review, a report should be prepared for his or her supervisor that details all use of force reports, formal and informal complaints, calls for service, sick leave, counseling reports, civil lawsuits, and commendations pertaining to the deputy. The deputy's immediate supervisor and command staff should then meet to discuss the report and determine if any corrective action is warranted. The supervisor's and command staff's recommendations should then be forwarded to the appropriate command personnel for his or her timely review and implementation. The effectiveness of the implemented recommendations should be determined by monitoring the deputy and drafting written reports on his or her conduct on a monthly basis. The deputy's supervisor should retain the supervisory recommendations and the written monthly reports in his or her supervisory file.

D. Senior Managers Should More Effectively Manage and Review Uses of Force.

Senior staff needs to be more actively engaged in reviewing the actions of front-line personnel. As part of routine supervisory activities, ECSO command staff should regularly

examine and review officer conduct to detect and minimize misconduct, and to identify training and policy issues.

Specifically, we recommend that ECSO convene a Use of Force Review Board to review use of force incidents on either a monthly basis or within a week of a use of force resulting in death or a death in custody. ECSO should select an interdisciplinary team to serve on the Board, to include one or more members of the command staff, as well as other members of the staff or county government who have the expertise, to assess a deputy's use of force, such as an ECSO use of force trainer, the County Attorney, supervisors with expertise in the use of ECWs, etc. The Board should review all use of force incidents. For each incident, Board members should examine use of force reports, oversight reports prepared by first-line supervisors, and, when available, internal affairs reports, and EWS data. Board members should then reach conclusions about individual incidents and patterns of conduct and formulate strategies for addressing identified concerns.

We also recommend that a member of the command staff meet annually with every ECSO deputy to discuss the deputy's concerns with management and/or ECSO's operations, the deputy's performance issues, including the quality of the deputy's uses of force, the deputy's complaint history, and positive aspects of the deputy's work. We recommend that the Sheriff himself, or his designee, meet annually with each of those ECSO deputies who have been subject to disciplinary or corrective action within the prior year to review their performance.

Finally, the Internal Affairs Division also has a role to play in ensuring that uses of force are being adequately reviewed up the chain of command. Internal Affairs should conduct audits of use of force incidents to track and assess the quality of use of force reviews. Internal Affairs should also monitor the EWS to identify problematic trends, and bring those trends to the attention of the command staff.

E. ECSO Should Continue Improving its Supervision Over the use of Canines.

ECSO should continue improving its supervision over the use of canines by deputies. In our May 2009 letter, we informed ECSO of our concern about the lack of supervision in this area. Specifically, we indicated that supervision over the use of canines was inadequate due, in large part, to ECSO's lack of an actual canine unit, headed by a supervisor who is directly responsible for each handler. ECSO has not addressed this deficiency. Presently, many of those who supervise the handlers in the field have little to no experience as canine handlers themselves and lack expertise in handling canines. As a result, they cannot adequately respond to the deployment requests of the handlers under their command.

ECSO should train its field supervisors on general canine use and the efficacy and ability of canines to assist in law enforcement, including use of force. If field supervisors are delegated with deploying canines, they should be appropriately trained on canine use, and the efficacy and ability of canines to assist in law enforcement. Moreover, they must also have the necessary skill level to intervene when the situation is outside the handler's scope of knowledge or authority.

Additionally, supervisors must be equipped to address any workload disparities among the handlers. A canine handler whose workload exceeds that of his peers is vulnerable to

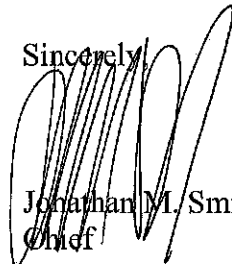
unwarranted scrutiny, as dog bite ratios are directly proportional to the number of successful apprehensions the handler has. Supervisors should monitor the workloads of handlers and take steps to maintain roughly equal workloads.

Finally, ECSO should continue to improve its data collection practices for its canine program. Following our initial visit, ECSO developed a data collection system that enables canine supervisors to track the training of handlers and deployment of canine units. Unfortunately, the system fails to accurately account for the program's bite ratio. To accurately assess ECSO's canine program's bite ratio, ECSO should only capture information from the following types of police activities in its database: warrant service, tracking, building searches, area searches, pursuits, and fleeing suspects. Doing so will provide ECSO with the information necessary to determine an accurate bite ratio that is not inflated with superfluous data, from, for example, a narcotics search. The database should also be amended to track the racial and gender break down of canine apprehension. While African-Americans account for 21.4 percent of the local population, they account for 51 percent of the dog bites.⁹ Clearly, non-discriminatory variables may account for these percentages, but ECSO command staff should closely monitor the extent to which any one particular racial or ethnic group or gender receives a disproportionate number of dog bites, and, if necessary, provide deputies with appropriate training to reduce disproportionate minority contact. The database should be configured to automatically alert management when the number of dog bites involving a particular race or gender trends disproportionately upward.

CONCLUSION

Your office has already made significant progress toward reforming its police practices. This letter has detailed a number of areas where further progress needs to be made to better protect the constitutional rights of the County's residents. We sincerely appreciate your efforts and the cooperation and assistance we have received from your staff.

Sincerely,



Jonathan M. Smith
Chief

⁹ United States Census, 2000 - Escambia County, Florida, *available at* http://factfinder.census.gov/servlet/QTTTable?_bm=n&_lang=en&qr_name=DEC_2000_SF1_U_DP1&ds_name=DEC_2000_SF1_U&geo_id=05000US12033.