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Memorandum on Los Angeles' Public Safety Operations

Mayor Garcetti,

As the senior public safety advisor to the Office of Los Angeles, it is my duty to give you a comprehensive and, as objectively as possible, thorough accounting of what does and does not make our city a safer place to live for Los Angeles' nearly four million residents (Census, 2020). As per your request, I have conducted comprehensive research of the consent decree that Los Angeles entered with the U.S. Department of Justice, approved by the City Council and the Mayor on November 2, 2000, and formally entered by the Federal District Court Judge Gary A. Feess on June 15, 2001. To better inform your future decision of whether to reallocate resources from the LAPD towards other city services, I have also done extensive research on crime patterns within Los Angeles and the greater United States; the consent decree period and the reforms enacted by Chief of Police William J. Bratton (2002-2009); the post-consent decree period under Charles L. Beck (2009-2018); and effective means and methods of reducing crime that are outside the current responsibility and capability of the Los Angeles Police Department. The following report will provide a descriptive overview of the formerly listed topics in the following order: a brief history of the consent decree and its consequences; the most pressing issues that continue to persist in policing post-consent decree; issues that could effectively be addressed through resource reallocations and restructuring of policing structure and objectives; and issues related to policing and crime that likely would not be affected by reallocation of resources.
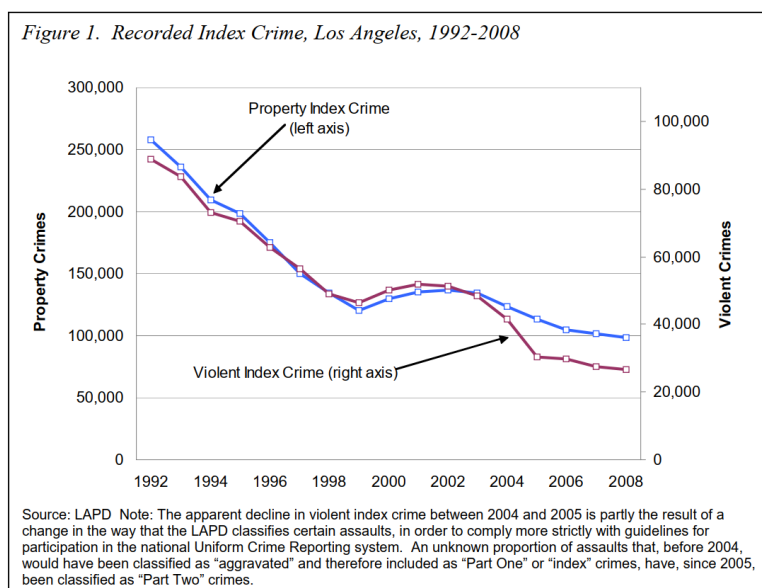
I.   Consent Decree Consequences

There were two major events in Los Angeles that provoked the investigation and ultimately the consent decree agreement – the beating of Rodney King and subsequent acquittal of the officers charged in the early 1990s, and the investigation of the CRASH unit in the Rampart Division of the LAPD (Bricker, Encyclopedia Britannica, 2021). CRASH – Community Resources Against Street Hoodlums – was found to have engaged in multiple criminal acts, including stealing drugs, planting evidence, and murder (2021). Police Chief William J. Bratton (2002-2009) oversaw the implementation of the consent decree, enacting multiple reforms of the department – some reforms which had been taken from his time as the New York Police Commissioner in the 1990s, including the implementation of 'stop and frisk'. To give some context to the scale of the implementation in Los Angeles, "When Bratton took office in late 2002, the LAPD had made just over 585,000 pedestrian *and* vehicle stops under Chief Bernard Parks. Six years later, under Bratton, that number had risen by a third, to 875,000 total stops" (Domanick, 287, 2016). Similarly, "pedestrian stops were disproportionally of African-Americans—about 35 to 40 percent, with a black population within the city of a dwindling 10 percent" (287, 2016).

   Another tactic simultaneously proliferated under Chief William Bratton, which was the gang injunction. According to the ACLU's Peter Bibring, "What's lost in discussion about this method of enforcement is that people are targeted who are only tangentially connected to gangs, or not connected at all. The California attorney general uses ten factors for determining if

somebody is a gang member and should be put into the state gang database. They include 'associating' with a gang member, who could be a cousin, an uncle, or a next-door neighbor with whom you're walking to school" (Domanick, 291, 2016).

    a.   <u>Crime during the Consent Decree</u>

The prior comments of excessive use of gang injunction criteria and inequitable stop-and-frisk tactics is not to suggest that there were no positive results that were accomplished by the consent decree. For instance, Domanick notes that "Bratton … started the conversion of the LAPD's culture by altering the way the departments patrol officers thought about their jobs … there was a much wider focus on having a positive community impact as opposed to just racking up arrest numbers" (314, 2016). Moreover, "Bratton also began the process of making the LAPD a far more efficient and accountable department while—at least according to the department's own numbers—starting a record of crime decreases that lasted for eleven straight years" (315, 2016). In a report entitled *Policing Los Angeles Under a Consent Decree: The Dynamics of Change at the LAPD*, the Kennedy School Program in Criminal Justice Policy and Management looked at property crime and violent crime in Los Angeles from 1992-2008. Below is a graph taken from the report that shows a steep decline from 1992-1999, a slight increase from 1999-2002, and a general steady decline starting in 2002 (7, Stone, et al., 2009).

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Figure 1. Recorded Index Crime, Los Angeles, 1992-2008

Source: LAPD Note: The apparent decline in violent index crime between 2004 and 2005 is partly the result of a change in the way that the LAPD classifies certain assaults, in order to comply more strictly with guidelines for participation in the national Uniform Crime Reporting system. An unknown proportion of assaults that, before 2004, would have been classified as "aggravated" and therefore included as "Part One" or "index" crimes, have, since 2005, been classified as "Part Two" crimes.

As noted by Domanick, "When Bill Bratton came to Los Angeles as chief, he brought with him Jack Maple's policing-by-the-numbers COMSTAT system of judging command officers' effectiveness and promotion potential, thus providing a particularly strong incentive for officers to cheat to meet production goals: live by the numbers, die by the numbers" (333, 2016). The consequences of this policy under Chief Charles L. Beck will be returned to in the section detailing the post-consent decree LAPD.

b. <u>Business Improvement Districts (BIDs) and the Rise of the Non-Profit</u>

There is an inherent difficulty in disaggregating the effects Chief William Bratton's policies had in reducing crime. For instance, in his book *Uneasy Peace*, Patrick Sharkey references research conducted by economists Phil Cook and John MacDonald; the researchers looked at thirty BIDs that were formed in Los Angeles in the 1990s and before 2005. According to Sharkey, a BIDs are "private entities created by property owners who agree to pay a tax in order to fund an enhanced set of services in a designated section of a town or city … as for most BID founders, security and sanitation were the primary goals" (40, 2018). According to Sharkey, "They [Cook and MacDonald] found that establishing a BID led to a reduction of roughly 28 crimes in the following year, a drop of 11 percent from the average annual total of crimes in each area where BIDs were formed" (Sharkey, 41, 2018). Sharkey notes that, "Perhaps the most persuasive finding [of the research] was that the greatest drops in crime occurred in the BIDs that devoted the greatest resources to public safety and security" (41, 2018).

The 1990s also saw a dramatic expansion of community organizations that "began to emerge in neighborhoods across the country to combat the problem of violent crime." (Sharkey, 50, 2018). To give an idea of the scale of the rise of nonprofits, consider that "in 1985, roughly 2,200 non-profits existed in Los Angeles. A decade later 4,800 nonprofits had been formed across the cities" (Sharkey, 51, 2018). Importantly, "a large number of nonprofits … were formed to deal with the crisis of concentrated poverty and violence that reached its apex in the late 1980s and early 1990s" (Sharkey, 51-52, 2018). By "analyzing data on every nonprofit organization formed in the nation's largest cities from 1990 to 2012," Sharkey found that "as the number of community nonprofits rises, every kind of violent crime falls" (52-53, 2018). Moreover, "In a given city with 100,000 people, [Sharkey] found that every new organization formed to confront violence and build stronger neighborhoods led to about a 1% drop in violent crime and murder" (53, 2018).

This decline in violent crime and increase in non-profits occurred during the 1990s and 2000s across all major cities in the United States. According to Sharkey, "In 1993, about 40 percent of big cities had a homicide rate above 20 per 100,000 residents, but in 2014 only 13 percent still had a homicide rate this high" (26, 2018). Disaggregating the myriad changes that cities experienced during the 1990s and 2000s and finding causal relationships is made evermore difficult by the changes in policy enacted across police departments and the expansion of nonprofits that were focused on mitigating violent crime.

II.   <u>Post-Consent Decree Period (2009-2018)</u>

As noted above in the Kennedy School report, both property and violent crime decreased in Los Angeles. However, the COMSTAT system that Chief William Bratton introduced brought with unintended consequences. As Domanick notes, "a *Los Angeles Times* investigation revealed that from early October 2012 through September 2013, the LAPD had misclassified nearly twelve hundred violent felonies as misdemeanors that consequently didn't appear in the department's annual report of serious (felony) crimes," and that the misclassified crimes included "hundreds of stabbings, beatings, and robberies" (332, 2016). As Sharkey notes of the LAPD's response to the

Los Angeles Times' investigation, "Instead of the department's 2013 portrait of declining crime, 2014's numbers showed a 14 percent increase in violent crime, the first in twelve years," and that this "increase was driven by … a soaring rise of over *28 percent* in the very category of aggravated assaults the *Times* exposé had first pinpointed" (333, 2016).

a. PredPol & Palantir

The problem with such a data-centric COMPSTAT model that the LAPD uses, one motivated by surveillance technologies, can be seen in the use of its extension in predictive policing with PredPol and the use of Palantir, themselves branches of the 2011 program Operation LASER (Los Angeles' Strategic Extraction and Restoration Program) (986, 2017). Sarah Brayne, Assistant Professor in the Department of Sociology at the University of Texas at Austin, conducted a qualitative case study of the LAPD over two-and-a-half years and took an in-depth look at how these technologies are used by the police department (2017, 983). In her research, she notes the problems with using historical data to inform predictive training models. In essence, if the model that is being trained takes in data that is not truly representative of the population, then the model will be biased.

Professor Brayne notes several researchers that have study the domain of crime data, finding that "estimates of unreported crime range from less than 17 percent to over 68 percent, depending on the offense" (997-998, 2017). Moreover, Brayne notes that several researchers have found that "crimes that take place in public places are more visible to police and therefore more likely to be recorded (Duster 1997); individuals and groups who do not trust the police are less likely to report crimes (Sampson and Bartusch 1998); and police focus their attention and resources on black communities at a disproportionately high rate relative to drug use and crime rates (Beckett et al. 2005)" (998, 2017). In the well-touted aphorism of machine learning, this is known as "bad data in, bad data out," and these types of technologies risk not only exacerbating long-standing racial inequities in policing and surveillance, but their use may actual drive these inequities and misallocate resources to areas that would benefit more from police presence.

b. Quality-of-Life Ordinances & "Coercive Benevolence"

In a paper published by Law & Social Inquiry, Herbert, et al., examine the ways that three of the largest police departments in the United States police what they call "social marginality." According to the authors of the paper, individuals that are socially marginalized are "insecurely housed individuals who have substance abuse and/or mental health issues" (1492, 2018). The authors contrast different models to policing the socially marginalized, including "aggressive patrol" by the NYPD, "coercive benevolence" by the LAPD in the Skid Row district, and "officer-involved harm reduction" by the SPD. The authors place the LAPD model between the NYPD and SPD models, noting that the model "treats marginal individuals as cost-benefit actors who, through improper choices and behaviors, are responsible for their current condition" (1492). This LAPD model developed as an offshoot of the 2006 Safer Cities Initiative (SCI), and it allows officers to use quality-of-life ordinances to move homeless individuals into some type of rehabilitative nonprofit instead of giving the individual a misdemeanor or ticket for violating laws that prohibit "sitting, lying, or sleeping on the sidewalk" (1502).

There are several concerns that the authors note this model contains, including: having little to no effect on crime; amplifying officers' propensity to conduct stops, issue citations, and make arrests; as well as the extremely high attrition rates of the rehabilitation programs (1502). On the latter point, the authors note that much of the "attrition is caused by the severe and coercive regulations within the organizations. Participants are subject to expulsion for a number of infractions, including verbal abuse, consumption or alcohol or drugs, possession of drug paraphernalia, failing to check in through the day, or leaving a dormitory without permission" (1502).

III.   Problems that can be addressed by resource reallocation and restructuring

As noted in the prior section, one of the models analyzed by Herbert, et al., was what they termed "officer-involved harm reduction." This model differs in several ways from the coercive benevolence model that the LAPD currently uses, but there is enough overlap between models – and, importantly, overwhelming evidence of its efficacy in reducing recidivism – that a reallocation of resources would be warranted. For instance, the current model has high attrition rates and high costs – roughly "$6 million annually for an impact area of only fifty blocks" (1502).

a.   Law Enforcement Assisted Diversion (LEAD)

The SPD model incorporates a Law Enforcement Assisted Diversion (LEAD) program, whereby a police officer may refer an arrestee to a LEAD case manager. These case managers are those "accustomed to working in an intensive and hands-on manner with their clients," with a "willingness to do everything from tracking down recalcitrant clients in dark alleys to accompanying them as they complete paperwork, keep appointments, and apply for services and housing" (1504). In contrast to the other models, "abstinence may or may not be among their clients' objectives, especially in the short term" (1505). The process of a LEAD case manager becoming involved with a client starts with an initial intake assessment, with the goal of connecting a client to services he or she needs, followed by an intake interview (1505). After this intake interview and the individual is brought on as a client, they then "work with case managers to create an individually tailored intervention plan. Such plans may include assistance with housing, treatment, education, job training, job placement, licensing assistance, transportation, small business counseling, child care, or other services" (1505). Moreover, the program does not require sobriety as a condition of remaining in the program, nor is "eligibility for services and benefits … time-delimited" (1505).

Herbert, et al., note that an outcome evaluation shows the promise of the LEAD system in reducing recidivism, quoting research that shows that "LEAD clients spent thirty-nine fewer days in jail than similarly situated arrestees who did not enter LEAD. Similarly, the odds that a LEAD client was sentenced to prison in the first year after enrollment in LEAD were 87 percent lower than for non-LEAD clients. Unsurprisingly, these reductions meant significant cost savings relative to non-LEAD clients (Collins, Lonczak, and Clifasefi 2015)" (1506). However, Herbert, et al., also note challenges to its implementation and sustained support, including:

"continued support from police who make referrals, a sustainable revenue stream, and access to affordable housing and suitable services" (1508).

Given the lack of efficacy in reducing social marginality and recidivism rates, it is my recommendation that we reallocate funds from SCI and restructure our existing organizations, including the police department and nonprofit providers, to mirror a LEAD-based model more closely. Given the diverse stakeholders involved in producing LEAD, which included "the Defender Association's Racial Disparity Project, the Seattle Police Department, the ACLU of Washington, the King County Prosecuting Attorney's Office, the Seattle City Attorney's Office, the King County Sheriff's Office, Evergreen Treatment Services, the King County Executive, the Washington State Department of Corrections, and others," it behooves us to bring together our state and local counterparts to collaborate and develop a similar model that works for our city (Herbert, et al., 1503-04, 2018). Not only does the data from the LEAD model show that it can be effective as a pipeline for helping the most vulnerable individuals living on our streets, but it also serves as a starting point for a continuous forum of diverse actors that allows for modification over time and streamlined cohesive implementation of policy across a diverse group of important stakeholders.

IV. Problems that cannot be effectively addressed by resource reallocation and restructuring

In the framework of legitimacy as espoused by Tom Tyler, he considers procedural justice as the situation whereby "people are viewed as evaluating authorities in assessing whether they use fair procedures when engaging in policing activities" (2004). The inherent tension with the LAPD's use of PredPol and Palantir is that, if one agrees that the data used in modelling criminality is itself biased, then there certainly exists the potential for a "feedback loop in which they not only predict events such as crime or police contact, but also contribute to their future occurrence" (Brayne, 998, 2017). The efficacy of the predictive power of the model is only valid insofar as the data inputted into the model is an accurate representation of reality. The uptake of technology and machine learning algorithms have their place in city government, particularly in optimizing resources and improving outcomes for our citizens. However, predictive policing and the expansion of surveillance technologies that are used by our law enforcement department overwhelmingly risk a flourishing of targeted abuse and violations of civil rights that will be looked at with shock and disdain by future generations. With that risk in mind, it is my recommendation that the department be required to have an independent auditor assess how the department and individual officers have been using these proprietary algorithms, with an audit of these technologies completed annually and reported to the Mayor's Office. Moreover, if the companies that sell these technologies do not acquiesce to an independent audit of their software, then it is my recommendation that we discontinue their use and pursue other vendors.

V. Summary of Findings and Recommendations

According to Giovanni Capoccia, Professor of Comparative Politics at the University of Oxford, "In the analysis of path-dependent institutions, the concept of critical juncture refers to situations of uncertainty in which decisions of important actors are causally decisive for the selection of

one path of institutional development over other possible paths" (2016). Los Angeles has seen the development of its department during these moments of critical junctures as being defined by the Chief of Police, notably Chief of Police William J. Bratton in response to the consent decree and Charles L. Beck in its aftermath. The significance of the decisions made by these two individuals in the composition, structure, and future of possibilities cannot be overstated. However, disaggregating their decisions as the cause of deterring crime is difficult, particularly as property and violent crimes across the United States showed similar declining trends over the same time period.

It is with the former in mind, and with a broad overview of decisions made inside the Los Angeles Police Department and in other police departments, that have informed my recommendations. At this critical juncture of our city's history, and in the aftermath of the 2020 protests in our city over the murder of George Floyd, it is within your power to decide the path that the institution of policing in our city will take. My recommendations have included an orientation of policing the vulnerable based on the LEAD model, as well as an immediate accounting of predictive policing and surveillance practices through independent auditing. It is my contention that these recommendations will ensure privacy, build partnerships, and enact a paradigm shift in the way we care for our citizens and keep our city safe. Enacting such recommendations will require buy-in from rank-and-file officers, citizens, and a host of other stakeholders. However, we have an opportunity to reintegrate and protect our most vulnerable citizens, increase transparency and accountability within our police department, and set an example for cities around the country about how to effectively, safely, and responsibly respond to crime within our community.

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