

The Los Angeles County

Sheriff's Department

20th Semiannual Report

by Special Counsel Merrick J. Bobb and Staff
and Police Assessment Resource Center (PARC)

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T w e n t i e t h S e m i a n n u a l R e p o r t

Introduction

This is the **Twentieth Semiannual Report** of Special Counsel to the Board of Supervisors, the Sheriff, and the public concerning the Los Angeles County Sheriff's Department (LASD), the largest sheriff's department in the United States. Our ongoing monitoring provides an outside, independent, and, we hope, objective perspective on the LASD. Essential to our functioning is the unrestricted access we have to the Department and our attorney-client relationship with the County.

It is our hope that our reports increase public knowledge about law enforcement and the challenges it faces. The inner workings of law enforcement are, to many, mysterious and opaque. Many see the police only as Hollywood presents it, or else as it is shown in crisis mode on TV news. These reports attempt to make the LASD more familiar and transparent. In so doing, our reports try to convey a more rounded and less stereotypic picture of what it is like inside law enforcement. The police are neither the unalloyed sterling heroes nor the brutal corrupt villains portrayed in the movies and media. The LASD faces difficult challenges and our reports point out problems and areas for improvement.

We have experienced the displeasure our reports can generate, whether from LASD executives, the deputies' union, or individual members of the Board of Supervisors. On the other hand, we have experienced deep satisfaction that our recommendations, when implemented, have led to forward progress and systemic change. Our critics sometimes suggest that we seek out problems to investigate simply to justify our

continuing monitoring role. That is not so. We do not have to go digging for issues. We answer our critics with the observation that all police and sheriff's departments are having difficulty adjusting to the mandates of police reform in the post-Rodney King era, and ongoing monitoring with its independent perspective is essential to the success of that transition.

Some say we have an agenda. It is that the LASD remain the gold standard for the rest of law enforcement. It is one of a small handful of agencies that is actively working to address the risk of serious police misconduct. The LASD's respectful response to the Kolts recommendations, and its willingness to consider in good faith what we say, despite its occasional chagrin about how we have said it, demonstrate the maturity and seriousness of the Department's leadership. The LASD is a far cry from the institution we investigated for the **Kolts Report**. Public monitoring and appraisal of a law enforcement agency is a new field, and at times we have had to feel our way along. We hope that we, too, are maturing in our role and bringing more seasoned judgment and nuance to our observations and criticisms.

This report has four chapters. Chapter One looks at recruitment, hiring, and retention. We first provide an update on the Department's efforts to diversify its ranks. The policing profession in the United States has undergone dramatic demographic change in the last 15 years, and the LASD's progress in diversifying its sworn personnel has generally followed the national pattern. As of March 2005, the Department's sworn personnel was 53.9 percent Caucasian, 30.4 percent Latino, 10.4 percent African-American, 4.1 percent Asian, and 1.0 percent Filipino. Women, however, continue to be underrepresented, comprising just 15.4 percent of the LASD force, a figure that is below the national average.

Recruiting women and minorities is just part of the Department's current hiring challenge. Like law enforcement agencies throughout

Southern California and the nation, the LASD is having a difficult time attracting sufficient numbers of qualified recruits to meet growing demand. The LASD, in particular, is confronting a crisis due to unprecedented rates of attrition, somewhat higher than normal retirements, and increased competition for recruits from other local police agencies offering immediate patrol assignments, higher pay, and what some see as superior retirement benefits. In March 2002, the Department had a shade under 9,000 sworn officers. Today, on the heels of a three-year hiring freeze, the number of sworn officers is just over 8,000. As the Department works to rebuild its numbers, it confronts these significant challenges. Indeed, there is a pervasive view among the Department's recruiters that the LASD is not attracting enough highly qualified applicants and is seeing greater numbers of applicants previously rejected by other law enforcement agencies. Although the Department denies having lowered its standards in any formal way, it may be doing so de facto by hiring individuals today that it had the luxury to reject a few years past.

Chapter Two discusses the LASD's efforts to weed out criminal misconduct by its own employees. One has to look no further than the LAPD's Rampart scandal to know that police officers can and do commit crimes. As the City of Los Angeles and LAPD learned in the wake of that scandal, the consequences can be staggering, including substantial civil liability, shattered trust and confidence in law enforcement, and, for the LAPD, a consent decree putting the department under the oversight of a federal judge and monitor. Taking affirmative steps to detect and prove criminal misconduct within its own ranks is a vital function of law enforcement.

We examine in Chapter Two how well the LASD—through its Internal Criminal Investigations Bureau (ICIB)—is performing that function. Although the quality of the small number of investigations conducted is

generally good, we conclude that the Department's proactive measures to uncover criminal misconduct are insufficient. Generally, the Department focuses its attention and resources on administrative investigations and discipline in lieu of criminal sanctions. One reason for this is the seeming futility of criminal investigations: the District Attorney declines to prosecute all but a handful of cases submitted by the LASD. While the LASD's underutilization of criminal investigations may be both logical and pragmatic, it ultimately does a disservice to both the LASD and the public interest.

ICIB needs to become much less passive and reactive in order for the Department to head off or reduce the risk of a Rampart-like scandal. Chapter Two compares the ways in which the LASD and the Los Angeles Police Department go about ferreting out criminal activity in their ranks. The federal consent decree under which the LAPD operates plainly requires it to regularly test the integrity of its officers through both targeted and random sting operations designed to catch officers engaged in misconduct. There is no consent decree mandating the same for the LASD, and the LASD does not conduct targeted sting operations with the frequency of LAPD. We conclude that the LASD should conduct frequent and rigorous targeted integrity testing.

Chapter Three discusses conflict resolution, or mediation. Beginning in the 1990s, law enforcement agencies began experimenting with mediation and conciliation to resolve relatively minor citizen's complaints of discourtesy or rudeness. In mediation, a neutral third party facilitates dialogue between parties to reach a mutually satisfactory resolution of the dispute. The **Kolts Report** recommended mediation for minor citizen's complaints, and the LASD adopted guidelines and a model for using this tool for complaint resolution. Mediation offers an opportunity for dialogue between citizens and police in a non-adversarial setting

that can leave both parties more satisfied with the complaint process and lead to a greater understanding of each others' perspective. Though we found broad support for mediation in theory, a different story emerged when we looked at the frequency with which it is used. Since 2002, the LASD has documented its use of conflict resolution in only 44 of more than 7,000 total personnel complaints filed during that time. Further, the Department does not use neutral, third-party mediators. As a consequence, complainants we contacted felt they had not been given a fair shake. We recommend expanded use of mediation, including the use of neutral third parties, not LASD officials, to conduct mediations.

Chapter Four examines the LASD shooting in a Compton residential neighborhood on May 9, 2005, where deputies fired 120 rounds in rapid succession at the driver of an SUV following a pursuit, endangering the lives of residents in nearby dwellings and injuring the driver and a sheriff's deputy caught in the crossfire. The Compton shooting itself was a frightening event, nearly a tragic one. For the LASD, it also was an embarrassing, if not humiliating, incident, raising serious questions about LASD policy, training, competence, and preparedness.

Ten deputies gathered near the SUV and began shooting without any apparent plan, without any apparent supervision, and without appropriate concern for background, crossfire, and the danger to themselves and the residents in the neighborhood, as the Office of Independent Review (OIR) found in a recent report. Several of the deputies disobeyed orders to disperse at the conclusion of the pursuit, to go into surveillance mode, and to set up or reinforce a perimeter or containment, as OIR also found. We agree with the LASD and OIR that the performance of nearly all the officers and one of the supervisors was substandard and, in some cases, substantially below standard. In Chapter Four, we address how best to ensure that this incident is never repeated.

Although the incident itself may not have brought out the best in the LASD, the LASD very ably managed the aftermath. Sheriff Baca wisely did not engage in a Daryl Gates-like stonewall. Precedents were broken, and, for whatever reason, the principal deputies' union was unable or unwilling to play an obstructive role. What remains to be seen is whether the Department has taken or will soon take adequate steps to eliminate or substantially reduce the risk of a recurrence.

Finally, as is our usual practice, we have included at the end of this report tables containing the most recent data on shootings and uses of force by members of the LASD. The numbers of shootings at suspects has risen steadily over the past several years, from 33 hit and non-hit shootings in 2000 to 57 such shootings in 2004 and 31 in the first half of 2005. *See* Tables A and B, at the end of this report. In 2004, 27 suspects were killed and 12 wounded in LASD shootings; between January 1 and June 30, 2005, five suspects were killed and 14 wounded. Not unexpectedly given the greater number of shootings, the number of suspects wounded or killed in 2004 and thus far in 2005 is up from prior years. *See* Table C. No particular station stands out as having an inordinately high number of shootings. *See* Tables C and D. Force incidents have not followed this trend, but have remained relatively stable over the past several years. *See* Tables E and F. The causes of these trends are no doubt many and complex. The LASD, with help from us and OIR, has substantially improved its ability to analyze officer involved shootings. We urge redoubled efforts to scrutinize shootings and analyze these trends.

Introduction

Once nearly the exclusive preserve of white men, the policing profession in the United States has undergone dramatic demographic change in the last 15 years. Across the country, African Americans, Asians, and Latinos make up a growing percentage of law enforcement personnel. Yet one group stubbornly continues to be vastly underrepresented – women. The LASD's progress in diversifying its sworn personnel across racial and ethnic lines has followed the national pattern, although it continues to have a smaller percentage of women than the national average.

Recruiting women and minorities, however, is only part of the recruiting and hiring challenge the Department currently faces. The LASD is confronting a crisis due to unprecedented attrition, increased demand for law enforcement personnel throughout Southern California, and somewhat higher than normal retirements. In March 2002, the Department had a shade under 9,000 sworn officers. As the result of a three-year hiring freeze, the number of sworn officers today barely tops 8,000, and the flow of officers leaving the LASD for perceived greener pastures has not been stanching.

The Department confronts significant challenges as it works to rebuild its numbers. It faces stiff competition for recruits from other local police agencies offering higher pay and what some see as superior retirement benefits. Those same agencies are actively courting LASD deputies with signing bonuses, new equipment, and promises that they will not have to work in a jail. The tight labor market and the effects of the hiring freeze,

coupled with deputies' protracted contract negotiations, have robbed the Department of the freedom to be as selective in its hiring practices as it has been in the past. Indeed, these problems have caused more than one Department official to worry about whether a future "Rafael Perez" might be making his way through the Department's current hiring process.

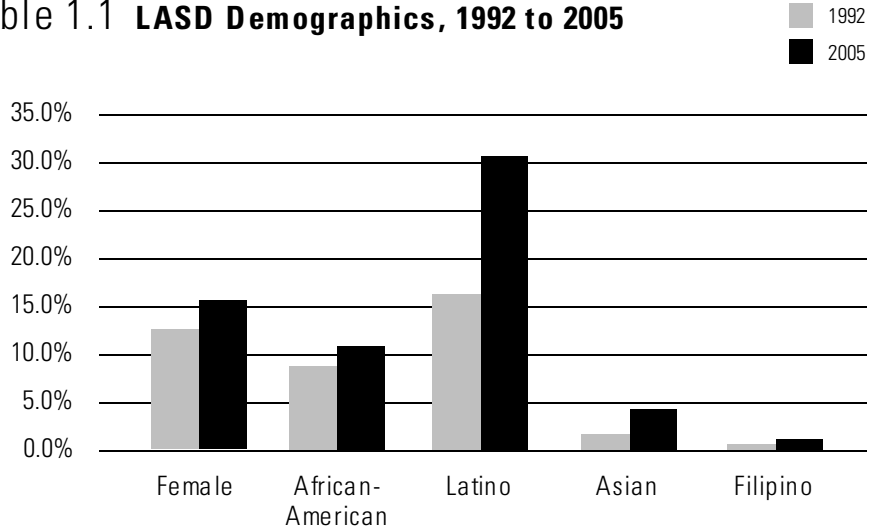
Despite the best efforts of Personnel Administration Captain Bruce Pollack, his staff, and the dedicated members of the Pre-employment Unit, there is a consistent view among the Department's background investigators and recruiters that the LASD is not attracting enough highly qualified applicants and is seeing greater numbers of applicants who have been previously rejected by other law enforcement agencies. Although the Department denies having lowered its standards in any formal way, it may be doing so de facto by hiring some individuals today that it had the luxury to reject a few years past.

I. LASD Demographics

At the time of the **Kolts Report** in 1992, the LASD was comprised of 12.5 percent women and was predominantly Caucasian (72.3 percent). African-Americans comprised 8.9 percent of sworn personnel; Latinos, 16.2 percent; Asians, 2 percent; and Filipinos, 0.5 percent. As of March 1, 2005, the LASD had 8,155 sworn members, not including deputy sheriff trainees. Of these, 15.4 percent are women; 53.9 percent are Caucasian; 30.4 percent Latino; 10.4 percent African-American; 4.1 percent Asian; and 1.0 percent Filipino. *See* Tables 1.1 and 1.2.

In 1992, the Department was in the midst of a hiring freeze that lasted until July 1994. From 1994 through the beginning of 2002, the Department grew to 8,921 sworn members, targeting recruiting efforts to attract more women and minorities. By 2002, 15 percent of the Department's sworn members were women; 57 percent were Caucasian; 28 percent Latino; 10 percent African-American; 4 percent Asian; and 1 percent Filipino.

Table 1.1 **LASD Demographics, 1992 to 2005**



Source: LASD Personnel Administration

Table 1.2 **LASD Demographics, 2005**

	Male		Female		Total	
	Total Personnel	Percentage	Total Personnel	Percentage	Total Personnel	Percentage
Caucasian	3865	47.4%	528	6.5%	4393	53.9%
Latino	2019	24.8%	460	5.6%	2479	30.4%
African-American	619	7.6%	228	2.8%	847	10.4%
Asian	303	3.7%	32	0.4%	335	4.1%
Filipino	75	0.9%	9	0.1%	84	1.0%
American Indian	13	0.2%	1	0.0%	14	0.2%
Other	3	0.0%	0	0.0%	3	0.0%
Total	6897	84.6%	1258	15.4%	8155	

Source: LASD Personnel Administration, March 1, 2005.

In 2001, the Department once again stopped hiring, and by 2003, its numbers of sworn officers began to drop by 300 to 400 per year. By March 2005, the number of sworn officers had fallen to 8,155.

On June 30, 2004, the LASD ended its hiring freeze and instructed its Personnel Department to begin hiring, with authority to hire as many as 675 recruits in fiscal year 2004-05 and 1,000 in 2005-06. Ultimately, the Department would like to build its numbers back to where it was before the latest hiring freeze, and at that point discuss the feasibility of further expansion. It is against this backdrop that we looked at the Department's current efforts to recruit and hire new deputies.

A. Newly-Hired Recruits

Between July 1, 2004 and June 30, 2005, the Department hired 516 deputy sheriff trainees for seven Academy classes (Class Numbers 337 – 343). In the five classes that have completed Academy training, 298 new deputies have graduated. The Department wants to fill nine Academy classes with 108 recruits each during fiscal year 2005-06. Because of the hiring challenges discussed below, meeting this goal will be a test for the newly re-staffed Pre-employment Unit.

As the Department struggles to hire new personnel, it has not lost sight of its commitment to reach out to women and minorities. Its goal is to have each Academy class comprised of 25 percent women, and for the breakdown of ethnic minorities to mirror the demographic makeup of the relevant labor market in Los Angeles County, which is 28 percent Caucasian, 47 percent Latino, 9 percent African-American, and 12 percent Asian. In the last year of hiring, it has met or exceeded these goals for all populations except Asians.

B. Gender Breakdown

The LASD has made surprisingly little progress since 1992 in changing the percentage of women in its ranks, improving only from 12.5 percent to 15.4 percent. By comparison, as of October 2004, the Los Angeles Police Department's 9,113 officers included 1,711 women, comprising 18.8 percent of its force. The U.S. Department of Justice reports that in 2000, in police departments serving cities of 1,000,000 or more people, 16.8 percent of all sworn officers were women. *Police Departments in Large Cities, 1990-2000*, Bureau of Justice Statistics Special Report, May 2002. Neither the LAPD nor the police departments included in the Bureau of Justice Statistics report have the large custody, correctional services, and court services divisions of the LASD. Breaking these functions out of the LASD's statistics, women comprise just 12.6 percent of the rest of the Department.¹

Table 1.3 **LASD by Division**

Division	Male		Female	
	Total Personnel	Percentage of Division	Total Personnel	Percentage of Division
Executive Division	42	66.7%	21	33.3%
Administrative Services	60	77.9%	17	22.1%
Court Services	1050	79.5%	270	20.5%
Custody Operations	1022	86.2%	164	13.8%
Correctional Services	529	69.8%	229	30.2%
Field Ops Region I	965	90.2%	105	9.8%
Field Ops Region II	1279	89.0%	158	11.0%
Field Ops Region III	877	88.1%	119	11.9%
Detective	433	85.1%	76	14.9%
Leadership and Training*	311	75.9%	99	24.1%
Technical Services	78	86.7%	12	13.3%
Homeland Security	374	92.1%	32	7.9%

* Includes deputy sheriff trainees
Source: LASD Personnel Administration, March 1, 2005

¹ There are numerous possible explanations for the low numbers of women in LASD patrol assignments. Certainly, the length of time a new deputy must spend in a custody assignment plays a role. See II.D., *Stagnation in Custody Assignments*, below. Perhaps even the existence of mandatory custody assignments is a factor, driving women with a strong desire to be patrol officers to other police agencies eager to hire them.

**Table 1.4
LAPD and LASD Females by Rank**

LAPD

Rank	Total Personnel	Percent Female
Chief	1	0%
Assistant Chief	3	33.3%
Deputy Chief	8	0.0%
Commander	13	0.0%
Captain	69	13.0%
Lieutenant	238	12.6%
Sergeant	1161	15.5%
Detective	1566	25.3%
Police Officer	6054	18.1%
Total	9108	18.8%

Source: City of Los Angeles Personnel Department, October 2004

LASD

Rank	Total Personnel	Percent Female
Sheriff	1	0%
Undersheriff	1	0%
Assistant Sheriff	2	0%
Division Chief	11	9.1%
Commander	28	14.3%
Captain	62	14.5%
Lieutenant	302	17.9%
Sergeant	985	16.2%
Deputy	6763	15.2%
Total	8155	15.4%

Source: LASD Personnel Administration, March 2005

Table 1.3 shows the breakdown of the Department by division and gender.

In promoting women to leadership positions, the LASD compares favorably to the LAPD. While the LAPD has one woman who has risen to Deputy Chief, the LASD has greater gender diversity at the level of Commander and has two notable women who have achieved high ranks – Office of Homeland Security Chief Sandra Hutchens and Sheriff’s Executive Assistant Roberta Abner. At the rank of Captain and below, the two departments are roughly equivalent.² See Table 1.4. Current hiring trends show promise of speeding up the pace of progress for women on the Department. In the seven Academy classes hired in 2004-05, there were 155 women (30 percent), exceeding the Department’s hiring goals.³ See Table 1.5.

² The LASD has no separate rank for detectives to compare to the LAPD’s 25.3 percent women. However, the LASD’s Detective Division is comprised of 14.9 percent women.

³ While this is a promising figure, the numbers of women who drop out of the Academy may negate these hiring gains. See I.C., *Academy Attrition*, below.

Table 1.5 LASD Recruits Hired, 2004-2005 (by Gender)

Class	Male	Female	Total	Percent Female
337	29	8	37	21.6%
338	45	29	74	39.2%
339	49	29	78	37.2%
340	58	27	85	31.8%
341	65	25	90	27.8%
342	37	10	47	21.3%
343	78	27	105	25.7%
Total	361	155	516	30.0%

Source: LASD Training Bureau

C. Racial and Ethnic Breakdowns

The percentage of Asians in the LASD, 4.1 percent, has doubled since 1992 but continues to lag behind the percentage of Asians in the Los Angeles County labor pool. The percentage of African-Americans has modestly improved to 10.4 percent, keeping pace with or exceeding the percentage of African-Americans in the labor pool. The Department's greatest success has been with Latinos, whose percentage of the LASD has grown substantially, from 16.8 percent in 1992 to 30.4 percent in 2005. *See* Tables 1.2 and 1.6. By comparison, the ethnic breakdown of the LAPD is 43.3 percent Caucasian; 36.0 Latino; 12.9 percent African-American; 5.7 percent Asian; and 1.7 percent Filipino. *See* Table 1.7.

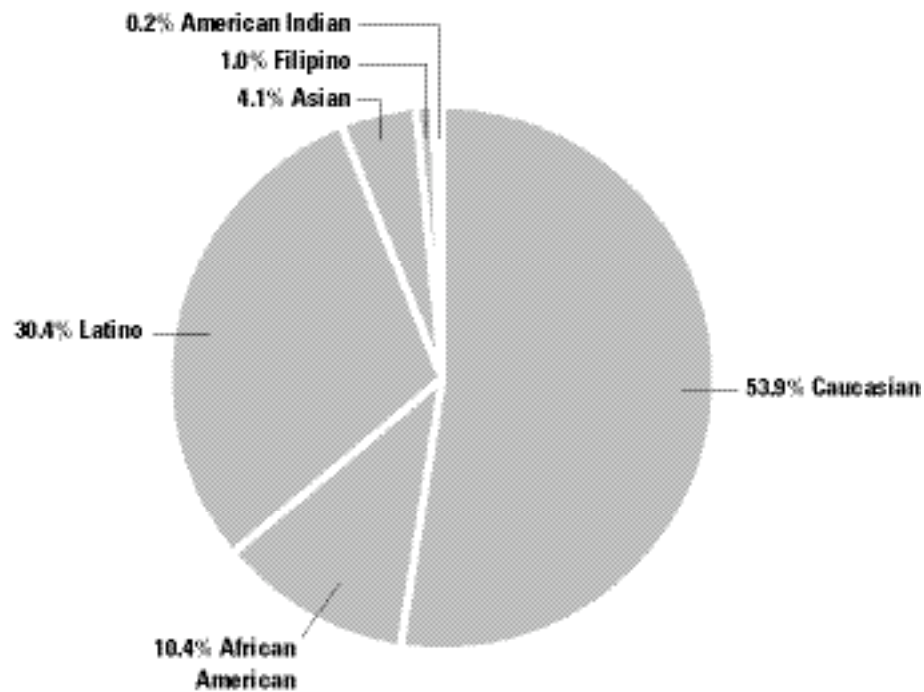
Again, the LASD is making progress in its hiring trends. In the seven classes hired in 2004-05, there are 286 Latinos (55.4 percent), 59 African-Americans (11.4 percent), 27 Asians (5.2 percent), and 13 Filipinos (2.5 percent). *See* Table 1.8. All of these percentages are higher than the percentage of each group currently on the Department.

The LASD's efforts to boost minority and female recruitment since the resumption of hiring last year signify positive movement toward the goal of increasing the representation of women and minorities on the LASD. We encourage the Department to continue this trend in hiring.

D. Academy Attrition

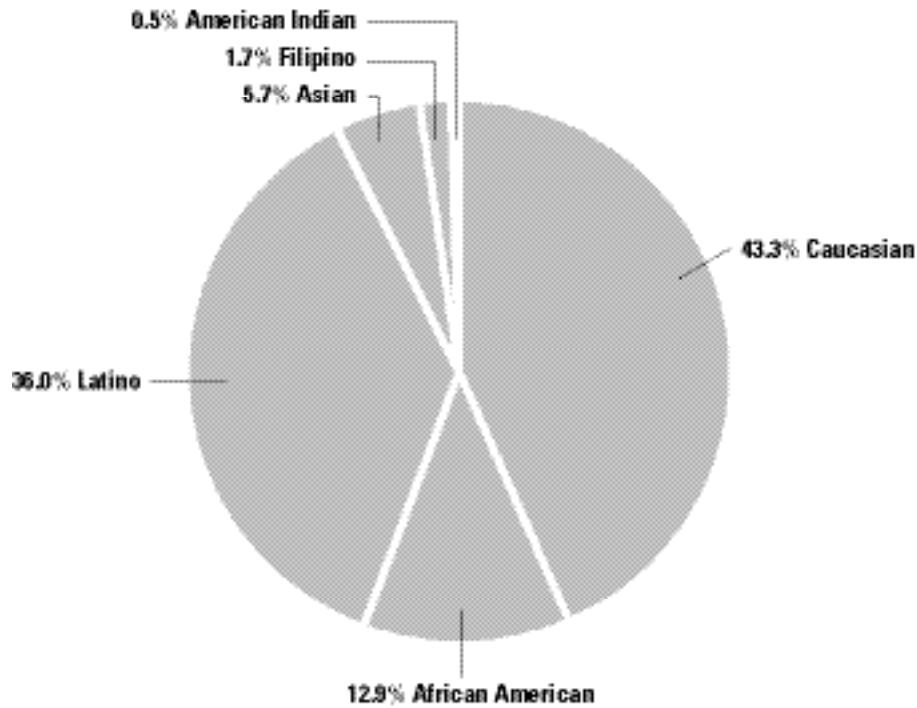
Training Bureau Captain Ted Siara and Lieutenant Steve McLean, head of Recruit Training, have the considerable responsibility of preparing newly-hired recruits to be deputy sheriffs and identifying those recruits who, for various reasons, are not qualified or ready to be

Table 1.6 LASD Demographics, Sworn Officers



Source: LASD Personnel Administration, March 2005

Table 1.7 LAPD Demographics, Sworn Officers



Source: City of Los Angeles Personnel Department, October 2004

deputies. Since the Department resumed hiring in 2004, roughly 18 percent of trainees have failed or dropped out of the Academy before graduation. *See* Table 1.9. A recruit can be “separated” from his or her class for failures in academics, physical training, weapons training, or vehicle operations. Some recruits leave because of injury or voluntarily, for personal reasons. Some may be separated because they display some type of bias or intolerance to others in their class or demonstrate, in 18 weeks of scrutiny, questionable ethics or moral judgment. A majority of those who are separated or leave do so because they do not arrive prepared for the rigors of

Table 1.8 **LASD Recruits Hired, 2004-2005 (by Ethnicity)**

Class	Latino	Caucasian	African- American	Asian	Filipino	Total
337	17	11	7	0	2	37
338	43	19	10	2	0	74
339	45	13	9	7	4	78
340	47	22	10	5	1	85
341	57	19	6	6	2	90
342	23	14	6	3	1	47
343	54	33	11	4	3	105
Total	286	131	59	27	13	516

Source: LASD Training Bureau

Academy training. As a result, they fail the physical tests, get injured, or leave under the strain of not being able to keep up with their classmates.

At 18 percent, the Department’s attrition rate is significantly above the statewide average of 10 to 12 percent. What is most alarming though, is the rate at which women drop out of their Academy training. In the five classes that have graduated since the resumption of hiring last year, Class Nos. 337-341, only 73 of the 118 women who began the Academy graduated with their class. *See* Table 1.9. That 38 percent attrition rate for women compares to a rate of 8.5 percent attrition for men, with 225 of the 246 men in these same classes graduating. So while nearly 33 percent of the recruits entering the last five Academy classes have been women, just 24 percent of the graduates are female. The majority of women who drop out do so because they do not keep up with the physical training.

We did not find any intentional efforts to discourage women or drive them from the Academy. On the contrary, Captain Siara and Lieutenant McLean share our concerns about the high attrition rates, and they and their staff are doing all they can to help recruits succeed. With the tight

job market and the Department’s need to hire and grow, the Academy has ceased to be a de-selector. Rather than drive out recruits who do not initially meet Academy standards, trainers work hard to get recruits through the physical fitness and academic tests, providing personal attention and customized physical training plans for those who need it. In fact, a number of women who are separated from their class begin attending regular training sessions with Training Bureau staff, with the goal of later returning to the Academy better prepared to ultimately graduate.

In other areas, the training staff has been successful in identifying and solving attrition problems. For example, a higher number of women used to fail the weapons training component of the Academy, owing in part to women’s generally smaller hands and relative lack of prior experience with guns. By adding more range time and some specialized attention, training staff reduced to zero the number of people dropped from the Academy’s last graduating class because of failed weapons training.

Table 1.9 LASD Academy Graduation and Attrition

Class	Total			Male			Female		
	Recruits	Graduates	Attrition	Recruits	Graduates	Attrition	Recruits	Graduates	Attrition
337*	37	34	8.1%	29	28	3.4%	8	6	25.0%
338	74	57	23.0%	45	38	15.6%	29	19	34.5%
339	78	64	17.9%	49	47	4.1%	29	17	41.4%
340	85	71	16.5%	58	57	1.7%	27	14	48.1%
341	90	71	21.1%	65	56	13.8%	25	15	40.0%
342	47	Sept 05	NA	37	Sept 05	NA	10	Sept 05	NA
343	105	Oct 05	NA	78	Oct 05	NA	27	Oct 05	NA
Total	516	297	18.4%	361	226	8.1%	155	71	39.8%

* Class 337 consisted of recruits who had chosen to join the LASD Reserves with the hopes of later being hired as trainees once the LASD had the authority to begin hiring and had completed the Academy training for Reserves.

Source: LASD Training Bureau

Addressing the disparities in physical training has proven more difficult. The LASD's physical testing standards follow POST requirements, so its recruits are held to the same or similar standards as police recruits statewide. There is a limit to the amount of physical fitness training one can do in 18 weeks of Academy training without risking injury, however. Before Academy classes begin, Training Bureau staff offers twice-weekly physical fitness training sessions to all applicants who are in the background investigations process. And once a month, the Academy staff conducts a "You Can Do It" seminar in which current deputy sheriff trainees discuss the Academy curriculum and physical demands, and members of the training staff lecture on exercise and nutrition as well as the academic requirements of the Academy. None of these preparatory sessions can be mandatory for applicants, however, and repeated warnings to show up for the Academy in good physical condition have had an apparently limited effect.

The Academy staff is hopeful that as the Departments' recruiting and outreach efforts continue, recruits will come to the Academy with a better sense of what is expected of them and will be better prepared to handle it. Such preparation, they believe, will drive down the female attrition rate, at least back to its historical average of around 30 percent.⁴ There is some early evidence that this optimism is not unfounded. In two ongoing Academy classes that began with a total of 37 female recruits, only six (16.2 percent) have dropped out, though the second of these two classes is likely to lose additional members before its October graduation date.

The pressing issue for the Department, then, is how to select women (and men) for its Academy who are more likely to succeed. In the past, applicants were required to pass a physical fitness test before they

⁴ The LASD is not alone in maintaining a disproportionately high attrition rate for women. Available data from the LAPD Academy shows a 35 percent attrition rate for women for the 10 classes that graduated in 2003-04.

entered the backgrounds process. That requirement raised concerns that the particular test created an unfair barrier for women seeking to join the Department. Rather than re-work the test to address the bias issue, the Department eliminated it as a hiring requirement. The result is that people with very poor physical fitness can find their way into the Academy, but are destined to fail. If all recruits entered the Academy with a basic level of physical fitness, Lieutenant McLean is confident he and his staff could substantially reduce the attrition rate and would graduate deputies in good physical condition.

The Department has been working with POST and an independent consultant to implement a pre-employment physical fitness test that is both relevant to the position of deputy sheriff and unbiased.⁵ We support those efforts and urge the Department to quickly adopt this change in its hiring practices.

II. Recruitment and Retention Challenges

Any problems the Department has experienced hiring female deputies are part of a larger problem of attracting and keeping qualified recruits in general. Nationwide, law enforcement agencies report difficulties filling their ranks with qualified applicants for two common reasons. First, the demand for law enforcement personnel is growing as agencies seek to replace retiring baby boomers. Second, for many young people, police work apparently has become less desirable than private sector occupations.⁶ The LASD is no exception. In fact, the LASD's problems recruiting and retaining deputies are exacerbated by fierce competition

⁵ The test as currently conceived would involve running, jumping, push-ups and sit-ups, similar to a basic fitness test given in high school P.E. classes.

⁶ See, e.g., LeSage, Jon, Recruiting Replacements, Police Magazine, June 17, 2005, reprinted at <http://www.policeone.com/writers/columnists/PoliceMagazine/articles/114037/>.

for the dwindling number of qualified applicants. Almost all of the other local law enforcement agencies are hiring new officers as they work to keep up with population growth and the corresponding increased demand for police services. Not only do those agencies compete with the LASD for the same group of qualified applicants, they have discovered that L.A. County Sheriff's deputies are an excellent pool for targeted lateral hiring. The result is that the LASD is struggling to hire new recruits at the same time it is losing significant numbers of young deputies to other agencies.

While recruits report that the Department still enjoys an excellent reputation as a top-notch agency with access to unparalleled variety in job assignments, the pay and retirement benefits offered by competing agencies are making the LASD increasingly less attractive. Recruiters report that young people today are much more motivated by money and educated about benefits and retirement packages than in past years, when many recruits were drawn to the Sheriff's badge and the Department's prestige and gave little thought to retirement savings and financial issues. In addition, the high cost of housing in Los Angeles County means that many recruits and deputies are choosing to live outside of the county. The opportunity to work closer to home is high on the list of reasons for individuals choosing agencies other than the LASD. The Department struggles with these realities, both in recruiting and retaining deputies.

A. Recruiting

The LASD has just recently built its recruiting team up to full force following the 2001-2004 hiring freeze. The Recruitment Unit had disbanded during that time and it took the Department months to assign and train the sergeant, 11 deputies, and the one custody assistant who currently staff the unit. The unit recently obtained authority to bring on more recruiters in the coming months.

Between January 1 and May 31 of this year, LASD recruiters attended 167 events, ranging from job fairs to boat shows to church events to the Long Beach Lesbian and Gay Pride festival. Attending such events and following up with those who express interest in an LASD career is the typical work of Department recruiters. In addition, the LASD engaged an advertising agency to develop its billboard, radio and other ad campaigns. This is a departure from past practices when the Department coordinated its own advertising. Though it is unfortunate it took the Department nearly nine months from the end of its hiring freeze to roll out its advertising campaign, the engagement of a professional agency is a positive step forward. The Recruitment Unit is optimistic that this move, which cost the Department almost nothing, will boost its applications.

We hope the optimism for the new ad campaign is not overblown. Since resuming hiring efforts last year, the LASD has fallen short of its hiring goals. The Department had authority from the Board of Supervisors to hire 675 deputies in fiscal year 2004-05, and hired 516 recruits.⁷ Accounting for actual and estimated Academy attrition rates, about 430 of these recruits will graduate and become sworn deputies. With an estimated Department-wide attrition of 450,⁸ this level of hiring will not keep up with Department losses. To be fair, for much of 2004, the Recruitment Unit was still catching up from the three-year hiring freeze and the Department's hiring goals for that time were overly optimistic.

For fiscal year 2005-06, the Department hopes to hire enough recruits to fill nine Academy classes with 108 recruits each. Though it is too soon to report on the effectiveness of the new LASD ad campaign, it seems to us

⁷ Class 337, which began on July 22, 2004, had 37 LASD recruits; Class 338 had 74 recruits; Class 339 had 78 recruits; Class 340 had 85 recruits; Class 341 had 90 recruits; Class 342 had 47 recruits; and Class 343 started Academy training on June 22, 2005 with 105 recruits.

⁸ This estimate is based on attrition rates for 2002 – 2004. In 2004-05, though, the number of departures reportedly exceeded historical averages.

and many within the Department that it is unlikely the LASD will meet this goal, given its own difficulties in hiring in the past year and state and nation-wide trends away from law enforcement careers.

B. Retention

From July 1, 2004 to May 31, 2005, 92 deputies left the LASD for reasons other than retirement; 80 of these reported they were leaving to join other law enforcement agencies. Though we were unable to get specific numbers for prior years, the Department reports that this number far exceeds the number of departures in any other year on record.

Outside agencies – police departments in smaller surrounding cities like Burbank, El Monte, Ontario, and Redondo Beach, among others, along with sheriff's departments in Riverside and San Bernardino Counties – are targeting Los Angeles County Sheriff's deputies in their own hiring efforts. In the most recent *ALADS Dispatcher*, six agencies placed ads appealing to LASD deputies, trumpeting their own salary and retirement benefits packages.⁹ Some agencies offer signing bonuses for LASD personnel who join their departments, and others credit deputies for the years they have on the LASD in calculating seniority and retirement benefits. Some departments offer “headhunter” fees to departed LASD deputies who convince their former colleagues to join them at their new department.

Targeting LASD deputies makes good fiscal sense for these agencies. The LASD Academy is recognized as one of the best in the state, and in hiring an LASD deputy these agencies get the benefit of that training, plus the deputy's experience working in the County jails. The perception at least, as we heard from many people, is that the LASD is losing some of its best to other agencies; that the most competent or “squared away” deputies

⁹ These ads, and other efforts by ALADS to help LASD deputies find jobs elsewhere, including a recent job fair, vex Department executives who see these efforts as damaging the entire Department, including the deputies ALADS represents.

are the ones most likely to look and be hired elsewhere. Because smaller agencies do not need to hire as many officers or deputies as does the LASD, those agencies can afford to be picky, hiring only those with the most impeccable credentials. The accuracy of this perception is not easily tested objectively. True or not, the perception alone is damaging to the Department's image and to deputy morale.

As we began our work on this chapter, some deputies who have left or were planning to leave the LASD told us that the Department made little effort to convince them to stay. This surprised us. The Department always knows which of its employees are looking elsewhere, as the recruiting agency must contact the LASD as it performs its own background investigation on its prospective hire. If it is true that the best deputies are leaving, why was the Department doing little or nothing to stop their departures? Of course, the Department cannot reward deputies threatening to leave with bonuses or promotions. And to be fair, the Department has little control over the financial factors driving most deputies' decisions. By the time a deputy has applied to another agency or tells a supervisor he or she is planning to leave, his or her mind generally is made up, leaving supervisors in a difficult position. They can emphasize the benefits of staying with the LASD, but do not want to openly criticize another law enforcement agency. And the reasons most deputies give for wanting to leave – to work closer to home, secure a better retirement, and move on to a patrol assignment – are understandable and difficult to argue against. But all the expense and effort spent on recruiting and training a new deputy certainly justify some directed effort, beyond a deputy's sergeant or supervising officer, to retain that deputy. Even a phone call or visit from a commanding officer, reminding the deputy why he or she chose to join the LASD, may prove effective in changing some deputies' minds. Instead, we found some in the Department rather haughtily

assumed that deputies who believe they can find greener pastures elsewhere should be left alone to discover later on what a grave error it was to leave the LASD.

This appears to be changing in recent months. There is a greater effort being made to de-bunk the idea of the greener pasture and convince deputies to stay with the Department. As the Department's alarm over the increase in departures has grown, chiefs and commanders have become cheerleaders, attending briefings to tell deputies why they should stick with the LASD and pleading with supervisors to spend time educating deputies on the retirement plan and other benefits of sticking with the Department. The Department is using deputies to spread this message as well. One deputy who left the Department in the past year for a smaller local agency returned to the LASD after six months. He had a personality conflict with a commanding officer at the new agency and learned he would not pass his probationary period. Since his return to the LASD, he has provided briefings at custody units describing his experience and the benefits of a large department, where a single personality conflict may be cause for transfer, but not discharge. Personnel Administration is considering ways to disseminate this and similar messages more broadly.

We applaud the Department's efforts to influence deputies' decisions to stay with the LASD and we encourage the Department to re-think ways in which it may implement a more formal retention campaign. The LASD spends at least \$40,000 to train a deputy, including the trainee's salary and the cost of the Academy's staff and training facilities.¹⁰ This is an investment in people who should not be able to leave the LASD without the Department's making a concerted effort to retain them.

¹⁰ When you add the cost of recruiting and investigating a recruit's background, the figure rises to as much as \$60,000 or \$70,000. Some estimates of this total cost are as high as \$100,000.

C. Low Morale

In the course of preparing this chapter and in our ongoing work with the Department, we spoke with approximately 40 to 50 deputies working in both custody and patrol assignments about the Department's retention difficulties. The reports we got during these discussions were straight-forward, uninhibited, and remarkably consistent. Deputies are unhappy and the lure of other police agencies is strong.

Many of the deputies' gripes with the Department are typical employment-related complaints: they are unhappy with their salaries and retirement benefits; they cannot afford to buy homes in Los Angeles County and the commutes from Riverside or San Bernardino Counties are too long and expensive; they could find more convenient and more appealing work schedules in another agency; they would like to complete their custody assignments and get out to patrol; they would have access to better facilities and better equipment if they worked elsewhere; they feel underappreciated. Of course, in any given job, one can always find disgruntled individuals unhappy with their working conditions and benefits. What struck us about the deputies with whom we spoke, particularly those in custody, was the consistency and apparent depth of their bitterness. One young deputy said he grew up watching Sheriff's deputies work in his community and "never considered wearing [LAPD] blue," yet says he is questioning that decision and is looking into joining another agency. This attitude was not uncommon among the deputies with whom we spoke.

The County recently concluded drawn-out contract negotiations with the deputies' union, and many in the Department's command staff believe that the new contract and movement created by ongoing hiring efforts will turn the tide on deputies' low morale. We hope they are right. But morale, like physical fitness, is more easily eroded than restored, and we fear the effects of the hiring freeze and bitter negotiations will be felt for longer than some executives appreciate.

D. Stagnation in Custody Assignments

While the Department has relatively little control over many of the deputies' complaints, the LASD can and should work to reduce the five to seven year average that deputies spend working the jails before they ever get the opportunity to go out in a patrol car. It is generally accepted that the current custody tenure is too long, and the Department recognizes the need to decrease it. The *ALADS Dispatcher* recruitment ads purchased by other law enforcement agencies certainly key in on this problem. Two that we saw recently lead with the headings: "Get Out of Jail" and "Ready to Hit the Streets?"

Historically, the length of time a deputy must work in a custody assignment grows during hiring freezes and then shrinks as the Department begins hiring again, bringing new deputies out of the Academy to staff the jails and releasing more senior deputies to patrol assignments. Thus, with the resumption of hiring, the Department expects that custody assignments for deputies will decrease to a pre-hiring freeze two to four years. The Department could not produce any calculations supporting this prediction of a two to four year custody tenure. At least two factors not present during other post-hiring freeze periods seem to belie their probability: (1) the number of deputies leaving from custody assignments for other police agencies (64 in the first five months of calendar year 2004 alone); and (2) the Sheriff's promise to re-open jail beds at the Century Regional Detention Facility and other facilities, which obviously will require additional custody staff. Still, Custody Operations sent 230 deputies out to patrol last year, not all of whom were replaced with new hires or transfers. Many of those positions have been filled with overtime shifts, a move that demonstrates the Department's eagerness (or perhaps desperation) to show some movement and stem the tide of departures and low morale.

Even if the Department gets the custody tenure down to the desired range, without systemic change, the Department is certain to go through this cycle again during the next hiring freeze. Shortening deputies' custody time should be a priority for the LASD. Any longer than two years in custody is not good for the deputies, the Department, the inmates, or the public. The longer a deputy eager to go to patrol is forced to stay in a custody assignment, the more likely he or she is to become bitter, jaded, and complacent. And because deputies' Academy training is geared largely toward patrol duties, many of the skills they acquire in the Academy lie dormant for years while they work the jails, only to be imperfectly refreshed during two weeks of patrol school when they are transferred out of custody.

There is no question that lack of movement out of the Custody Division plays a significant role in deputies' low morale and the Department's attrition rates. Deputies complain about having to spend so much time working the jails. Yet custody commanders report they receive a significant number of requests for extensions of custody time from deputies scheduled to go to a patrol assignment. Some deputies want to stay in custody assignments for a number of different reasons, including school schedules, child care issues, and injuries. One major reason, however, seems to be waning enthusiasm for patrol. Deputies working the jails get accustomed to the regular work schedules and the routine nature of that assignment. After five years, some simply lose the desire to work a patrol assignment. They may have found they are well-suited to corrections work and like the challenges presented in the jails. Or they become fearful of the risks patrol deputies must take on a daily basis. For some, the desire to stay in familiar surroundings is simple inertia.

For those people who want to stay in custody, the Department has temporarily relaxed its rule requiring all deputies to leave custody for a patrol assignment, known as the "214 rule" for the number of the class for

which it was first implemented. A significant number of deputies have taken advantage of this,¹¹ electing to remain in custody, and thereby allowing someone more junior to go to patrol more quickly than he or she would have otherwise. Over the years, there has been talk in the Department about doing away with the 214 rule altogether. Two principal arguments in favor of the rule emerge from Department executives in these discussions. First, the Department wants to have available a large pool of patrol-trained officers ready to assume duties in a crisis situation. Allowing some group of deputies to only work custody assignments undermines this goal.

Second, many in the Department believe that eliminating the 214 rule will result in many women avoiding patrol duties by staying in the jail. The widely-expressed view on this is that women who come onto the force at age 20 or 21 prepared to be cops out on the streets have, by age 26 or 27, “changed their priorities.” That is, they have gotten married, perhaps had children, and grown accustomed to the regular schedule and predictable hours of a custody deputy. Allowing these women to stay in custody assignments and never go to patrol, the argument goes, will mean there are not enough women on the force eligible to be promoted and the Department will be unable to comply with its obligations under the court order stemming from the *Bouman* litigation.¹²

This argument and its implied assumption – that the excellent female chief, commanders, captains, lieutenants and sergeants in the LASD may not be where they are had they not been forced to go out to patrol – is misguided. One need look no further than the LAPD for an example of a large department with no substantial custody division that does a better

¹¹ Since February 2005, the Custody Operations Division has granted approximately 35-40 extensions, a substantial number, given the Department transferred just 123 deputies from custody to patrol during that time.

¹² Currently, only deputies with patrol experience are eligible to be promoted to sergeant, and the *Bouman* order requires the LASD to promote certain percentages of women.

job of attracting and retaining women than the LASD. Women, like men, differ from individual to individual. There are women *and* men on the LASD who prefer regular schedules and the security of a custody assignment over a career on the streets. Under the current system, those individuals complete their custody assignments, do their time on patrol, and then seek out similarly safe, predictable positions. They have no real desire to be in positions of leadership in the Department and will complete their careers as deputies serving important, non-patrol functions in the Department. Likewise, there are women *and* men who are driven to seek positions of leadership and power and will do what it takes to accomplish that, leaving behind a comfortable custody schedule for different experiences and opportunities.

In any event, this pro-214 rule argument is based on a custody tenure of five to seven years, enough time for “priorities to change.” If abolishing the 214 rule resulted in the Department consistently keeping deputies’ mandatory custody time to two years or less, it is less likely that women or men would grow so comfortable with their regular custody assignments so as to never want to leave. We recommend the Department continue its relaxed approach to the 214 rule while it continues to examine ways to reduce deputies’ custody tenures, including the feasibility of eliminating the 214 rule altogether.¹³

In addition to addressing the 214 rule, the Department is looking at other ways to reduce custody time and elevate deputies’ morale. Of course, hiring new deputies is the best way to do both. In addition, the Department is working to hasten the return of patrol deputies who want to go back to custody assignments. Because deputies must spend their first

¹³ There are other good reasons for eliminating the 214 rule, beyond the goal of alleviating stagnation in custody assignments. Many in the Department make the assumption that deputies who like working the jails lack ambition or motivation, but some individuals may find they are well-suited to working in a custody facility. If given the chance to treat custody as a career choice rather than a rest stop on the way toward a patrol assignment, those deputies may effectively raise the level of professionalism in the jails.

six months on patrol paired with a field training officer, this slows down the exchange of deputies between custody and patrol, as patrol stations are not always eager to lose a veteran deputy in exchange for a trainee. In fact, there are not large numbers of deputies waiting to return to custody, but deputies in custody “hear” that there are patrol deputies waiting to work the jails, and the perception is that the Department is not doing all it can to alleviate stagnation by moving deputies from the jail to patrol. True or not, the perception affects morale. Custody has responded, and has had some success working with patrol regions to speed up the exchange of deputies.

As a further measure, the Department is offering educational incentives through Custody Operations and LASD University to encourage deputies to work the jails while they take college classes. And some in the Department have proposed offering financial incentives to deputies who want to return to custody assignments but who may not do so because of the stigma attached to that decision. We have not studied these ideas enough to know whether they could work, but are encouraged by the Department’s efforts at innovative thinking.

Custody Operations is also working to re-institute its ride-along program as a way to boost deputies’ morale. In past years, deputies working the jails were permitted, on their own time, to ride along in patrol cars to get a taste of patrol and break up the monotony of their custody assignments. They would ride in uniform and, though they were not officially on duty, they could get involved in situations as the need arose. Then the Department learned that allowing deputies to go out in uniform, in an official capacity, while not paying them for their efforts, violated the Fair Labor Standards Act. As a result, the LASD changed the rules so that deputies assigned to custody could only go on ride-alongs in civilian clothes and could not act as police officers. This infuriated deputies and

the ride-along program essentially stopped as deputies showed their dissatisfaction with the new rules by ceasing their participation. The Department currently is working to bring the ride-along program back. The Training Bureau and Special Enforcement Bureau are making similar morale-building efforts for deputies in the jails. Both units offer weapons and tactics training to custody deputies in an effort to keep them engaged and excited about their patrol opportunities.

While the Department works on these issues, it should also begin thinking creatively about alternate ways to staff the County's seven jail facilities. Currently, the jails are staffed by approximately 1,100 deputies and 700 civilian custody assistants. Custody assistants receive eight weeks of training (compared to 18 weeks for a deputy), do not have peace officer status, are not weapons trained, and are called upon to perform a limited number of tasks in the jails. Specifically, custody assistants do not have the same report-writing responsibilities as deputies and generally work locations where there is less direct inmate contact or risk of engaging in a fight with an inmate. They assist deputies in jail operations by performing inmate counts, monitoring inmate movement, distributing meals, and countless other useful tasks. Custody assistants make considerably less money than do deputies and have no opportunity for promotion.

Ideally, the Department would like to increase the number of custody assistants and reduce the numbers of deputies needed to operate the jails. Unfortunately, the LASD has even more difficulties hiring custody assistants than hiring deputies, so the Department is not likely to end stagnation in custody assignments by staffing the jails with a higher proportion of civilian employees.

The Department should instead consider the feasibility of having two separate tracks for deputies: one for custody operations and another for patrol. A system with two classifications of deputies would have a number

of benefits. Deputies who want to work in custody would be able to make a career of that decision, and deputies who want to work on the streets could do so after spending little or no time in the jails, depending on inmate population and staffing levels. Deputies' training would be targeted to their assignment, meaning that custody deputies would receive more training specific to custody operations than any deputy currently receives. As custody deputies rise in seniority and rank, they would develop expertise in corrections issues that few in the Department currently have. And the Department would get the most out of its deputies, as it is commonly understood that a good employee in the jail is not always successful on the street, and vice versa.

The San Diego Sheriff's Department (SDSD) offers a useful model for a dual-classification system. In the early 1990s, that department created a separate career track for what they call "detentions deputies." While it took over a decade to phase in, at the beginning of this year, its seven jail facilities were staffed almost entirely with detentions deputies.¹⁴ Detentions deputies attend a separate academy, are weapons trained, and attain POST Peace Officer status. Traditional, or "law enforcement," deputies receive slightly higher salaries and attend lengthier academy training. The executive with whom we spoke hopes that these differences will be eliminated, as she noted the distinction and the stigma it creates is the biggest disadvantage to the dual-classification system. Detentions deputies have promoted to sergeants, lieutenants, and captain, supervising and overseeing detentions facilities, and the department plans to promote further, to commander and chief. To combat stagnation, detentions deputies rotate among the county's jail facilities and can work in the court system as well as the training bureau, internal affairs, and recruitment and background investigations.

¹⁴ The SDSD has some law enforcement deputies on light duty assignments working in its jails.

Overall, San Diego is pleased with its dual classification system. Executives report that the jails are more stable; that detentions deputies are skilled professionals who take pride in the job they do and are committed to their careers. They believe that their detentions deputies have learned to be excellent problem-solvers and that their custody staff now seems less lackadaisical than when custody assignments were mandatory pre-patrol jobs. In fact, we were surprised to learn that more of the individuals applying for detentions positions had at least some college education, whereas those seeking law enforcement positions generally had high school diplomas or GEDs. Further, the SDSA reports that women seek law enforcement positions at the same rate they seek detentions jobs, combating the assumption made by many LASD officials that women are less likely to want patrol assignments.

While we have not studied this issue enough to recommend that the San Diego model be adopted by the LASD, we do think it is time for the Sheriff to look at other ways to staff the jails, and a dual classification system seems to us a promising alternative.

III. The Hiring Process

When hiring was curtailed, Personnel Administration released its backgrounds and recruitment staff to other divisions, leaving just 13 sworn members in the unit. Re-staffing to the current level of 56 sworn took some time. The Department formed a task force made up of former backgrounds and recruitment deputies to hire and train new staff. The task force worked for five months to bring the unit to its current levels. After working through some growing pains, the Department's recruiting and hiring efforts have just recently become fully engaged.

The hiring process begins when an applicant fills out an application, takes the Department's written test, and completes a pre-screening

questionnaire. The written exam mainly tests reading comprehension, and the pre-screener serves to provide some basic background information. If the applicant passes the written exam, he or she then goes through a brief oral interview, again covering basic background information. The interview consists of a set of pre-determined questions testing the applicant's basic knowledge of the Department's structure and the role of law enforcement. Few applicants fail this initial interview.

After these preliminaries, the background investigation starts with an approximately two hour interview with the applicant, during which the investigator explains the hiring process, discusses the Department's standards and expectations, and begins to gather more detailed information about the applicant's history. After the interview, the investigator goes to work gathering facts about the applicant pursuant to the Department's closely-guarded guidelines for hiring. The three to four page document discusses the Department's standards for prior employment, education, drug use, financial stability, criminal history, falsification, or other troubling conduct. It is the background investigator's job to unearth things in an applicant's past that call into question his or her ability to serve successfully as a deputy sheriff. To that end, the investigator reviews the applicant's employment history, interviews past employers, talks to the applicant's neighbors, and reviews the applicant's credit history and record of drug use or criminal conduct, if any. The investigator looks for signs of an applicant's ability to manage his or her own affairs, work well with others, control anger, and respect members of the opposite sex and different ethnic backgrounds. The background investigator's final memo lays out the facts and highlights concerns about a given applicant, but makes no recommendation about hiring. Sergeants in the Pre-employment Unit review the investigators' memos and on rare occasions may eliminate an applicant at that point. Ultimately, more senior personnel staff make the decision about whether to hire a given candidate.

The length of time needed to complete a background check depends in large part on the applicant's age, how many jobs and homes he or she has had, and where he or she has lived and worked. Because investigators conduct in-person interviews of all employers and neighbors the applicant has had in the previous ten years, the investigation of an applicant who has frequently moved or changed jobs, or who has lived outside the Los Angeles area, obviously will require additional time. A typical background investigation, though, takes about four to five months to complete. Each of the Department's 28 background investigators carries a load of about 30 applicants at any one time, and an investigator spends an average of 15 to 16 hours on each investigation.

Following the background investigation, an applicant must take a polygraph test, undergo psychological screening, and pass a medical exam. Moving applicants through this process quickly takes substantial coordination, and the newly-reconstituted Pre-employment Unit has had its share of growing pains as it works to streamline the system. In the end, the Department has erred on the side of thoroughness, accepting some delays rather than taking shortcuts through the hiring process on its way to filling Academy classes.

A delay in completing the hiring process can cost the Department a valuable recruit, however, as many recruits apply to multiple law enforcement agencies and report that they will go to the first one that hires them. When there is a particularly strong applicant and the background investigator learns he or she is applying to other agencies, the investigator knows that the LASD likely will lose that candidate because the other agency will almost certainly complete its background investigation and make an employment offer more quickly. And yet there is apparently little the investigator can do to speed that candidate through the process. Though the Pre-employment Unit recently received authorization for additional

background investigators to help expedite the hiring process and increase the volume of applicants that can be investigated at a given time, this alone will not eliminate costly delays. We recommend a triage system for moving applicants through backgrounds at a rate corresponding to their likelihood of eventually being hired. Procedures could be implemented to move highly-qualified candidates through the system quickly without compromising the rigor of the process or prematurely disqualifying worthy applicants. We heard recently that the Department currently is researching the feasibility of such a triage system and we support these efforts.

One obvious place to begin is with the Department's height/weight chart, which lists weight ranges by height that every applicant must fall within before being hired. An applicant can only bypass the height/weight requirement with a body fat test showing his or her percentage of body fat falls within a given range. Applicants are told of the weight requirement at the very beginning of the hiring process, but no applicant is dropped because of his or her weight until the background checks have been completed and he or she is given a medical exam. The rationale for proceeding with a background investigation on an applicant who is clearly too heavy is that the applicant may use the four to five months it takes to complete the investigation to diet and work out. When applicants pass the initial hiring hurdles and enter into backgrounds, they receive written information on the Department's physical fitness and height/weight requirements and are invited to the Academy's bi-weekly training sessions.

Still, at any one time, somewhere between 25 and 50 percent of individuals in backgrounds do not meet the Department's height/weight standard, and many of those are 15 pounds or more out of range. Frequently, individuals who complete the background process ask to have their applications put on hold because they know they are overweight and will not pass the medical exam. There are hundreds of such applications

in filing cabinets in the Pre-employment Unit. The result is that background investigators spend time on applicants who likely will never meet the Department's requirements at the expense of slowing down the hiring process for individuals who are qualified and eager to become deputies. The Pre-employment Unit should develop guidelines that allow investigators to identify the applicants most likely to be successful deputies and then prioritize their investigations and subsequent psychological, medical, and polygraph screening accordingly.

IV. LASD Standards

With all these factors at work – newly reconstituted recruitment and pre-employment units, the push to build numbers after a hiring curtailment, stiff competition from other local police agencies offering what some see as higher pay and superior retirement benefits – we were concerned that the Department would be tempted to lower its hiring standards to build its ranks.¹⁵ While our fears were unfounded to the extent that the Department has not explicitly relaxed its guidelines for moving individuals through the background process, the Department is not attracting the same number of high quality applicants it has drawn historically.

The background investigation process remains rigorous, and the background investigators we interviewed take substantial personal pride and responsibility for their role in the Department's ongoing growth. Those investigators nonetheless expressed frustration that the "quality of applicants is going down" and that the current applicant pool is "not the greatest." There are few objective measures for these statements, but it

¹⁵ We note in passing that the LAPD recently announced somewhat relaxed standards for applicants with prior drug use or bad credit. We are not yet prepared to advocate similar relaxation of standards in the LASD, though we urge a thoughtful review of current standards in the areas of drug use and credit history.

is a view common among those with whom we spoke.¹⁶ When pressed for details supporting the perception, the investigators reported that more applicants view law enforcement as a job rather than a career or a calling, that a higher number of applicants see the Sheriff's Department as a way out of a low-paying job, and that fewer are coming to the LASD with experience in the Explorers program or after taking some college-level criminal justice courses. Investigators also reported seeing more applicants coming to the LASD after being rejected by other police agencies. Those investigators are troubled by this trend, remembering that in past years, the LASD would refer those applicants not accepted into the Academy to other local agencies that were hiring. Now, too frequently they hear applicants say, "X police department didn't hire me, but told me to try the Sheriff's Department."

Universally, the background investigators we spoke with said that today's applicants show far less initiative than in the past, failing to show up for interviews and often requiring repeated reminders to produce documents and contact information necessary to complete their background checks. In the past, applicants who skipped interviews and did not promptly respond to requests for documentation would have been dropped from the hiring process. In today's difficult recruiting environment, however, background investigators have to be more accommodating and do whatever it takes to keep qualified individuals moving toward an employment offer. This lack of initiative does not appear to be unique to LASD recruits, however, and may be more a product of generational shift than applicant quality, as hiring staff from other law enforcement agencies report similar difficulties.

The clear message from executives is that the Department's standards have not changed and they are satisfied with the quality of its recruits.

¹⁶ Some of the newer investigators with whom we spoke acknowledged that older generations may tend to view younger generations as inferior (the "kids today..." attitude) and this may play some role in current perceptions. However, a number of people we talked to were part of the Department's pre-employment unit in the 1990's, before the most recent hiring freeze, and so are comparing today's recruits not to themselves, but to prior applicant pools.

We spent enough time watching and listening, however, to question the party line. With fewer outstanding recruits applying, the Department is digging deeper into the applicant pool to try to fill its Academy classes. While staunchly denying that the Department has in any way lowered its standards, pre-employment staff report they feel pressure to “go the extra mile” to resurrect candidates they believe, in the past, would not have been hired. It is not that the LASD is hiring people who are unqualified – an individual who lies to background investigators, has a serious criminal record, or got fired from his last job because he never showed up to work on time will be disqualified now, as in the past. Indeed, the fact the Department has not met all its hiring goals since it began hiring again last year is a good sign that the Department has not pressured its Personnel Administration to fill Academy classes at all costs.

What is different is how the Department treats those individuals who do not have serious problems in backgrounds but who show no great promise, either. In prior hiring periods, the Department had the ability to choose the best from among the pool of candidates surviving backgrounds: those with demonstrated leadership skills, a commitment to law enforcement, or some amount of post-high school education. Others, though technically qualified, would not receive employment offers. The same is not true today. In short, the LASD has lost the freedom to be choosy.

Conclusion

Because of the tight hiring market and competition from other law enforcement agencies, the Department is struggling to rebuild its numbers following the most recent hiring curtailment. While the Department has done well to not shortcut the hiring and background investigation process, we are concerned that the effects of the hiring freeze, prolonged contract negotiations resulting in a contract with which many deputies are dissatis-

fied, extended time in custody assignments, and a generational shift away from careers in law enforcement have weakened overall the pool of applicants being drawn to the LASD. To hire the significant numbers of new deputies needed to keep up with attrition and break the stagnation in the jails while maintaining the Department's high standards and not losing sight of its diversification goals will require ongoing diligence by Personnel Captain Bruce Pollack and his staff. We believe they are up to the task, but recognize that a number of the forces driving up attrition rates and hindering recruitment efforts are outside the Department's control. We urge the County and the Department to continue to pay close attention to these issues.

Introduction

One has to look no further than the LAPD's Rampart scandal to know that criminal acts by police officers can and do occur. The consequences can be staggering. The Rampart scandal cost the city of Los Angeles more than \$70 million, shattered trust and confidence in the LAPD in many quarters, and led directly to a consent decree putting the LAPD under the oversight of a federal judge and monitor. Taking affirmative steps to detect and prove criminal misconduct within its own ranks is a vital function of any law enforcement agency.

In this chapter, we examine how well the LASD is performing that function. The Department's Internal Criminal Investigations Bureau (ICIB) is charged with investigating allegations of criminal misconduct committed by LASD sworn and civilian employees. The quality of the small number of investigations conducted by ICIB is generally good, and we reviewed many investigation files in which ICIB investigators did exemplary work in interviewing witnesses and gathering evidence to present solid cases to prosecutors or to correctly determine no probable cause exists to believe a crime occurred. Nonetheless, we conclude that the Department's proactive measures to uncover criminal misconduct are insufficient. Generally, the Department focuses its attention and resources on administrative investigations. There appears to be a departmental preference for getting bad apples to resign in lieu of seeking prosecution. One reason for this is the seeming futility of criminal investigations: the District Attorney declines to prosecute all but a handful of

cases the LASD submits to it. While the LASD's underutilization of criminal investigations may be both logical and pragmatic, it ultimately may disserve both the LASD and the public interest.

Our research for this chapter included numerous interviews with ICIB officials and other members of the Department, a painstaking review of statistics on ICIB's caseload, and scrutiny of the investigation files in roughly one-fourth of the cases closed by ICIB in the past several years. Our research also involved a thorough examination of how the Los Angeles Police Department (LAPD) detects and investigates criminal misconduct by its employees. Because of the close similarity between the two largest law enforcement agencies in Los Angeles County, comparisons between the two can be revealing. The LASD does not agree such comparisons are apt, contending that the LAPD has only recently begun a process of internal reform, accountability, and transparency that the LASD began 13 years ago in the wake of the **Kolts Report**. The LASD points out that unlike the LAPD, its problems were never so grave as to require a consent decree and the oversight of a federal judge.

We want to make clear that our comparison of the LASD with the LAPD is not to suggest that one of these fine law enforcement agencies, both with excellent leadership, is better than the other. We know we tread somewhat on sensitive ground when making comparisons between the two departments. It is a little like suggesting to USC that it could learn some football tips from UCLA. But our goal in this chapter is to help the LASD avoid finding itself in the situation that the LAPD had to face in Rampart.

The LASD believes that there are significantly fewer internal investigations of criminal misconduct than in the LAPD because LASD deputies engage in less criminal behavior. That may be so, but it is a matter that cannot feasibly be proved or disproved. Nonetheless, we agree with the Sheriff's Department that it has and continues to make significant progress

on risk management generally. Its current ability to manage the risk of police misconduct is a far cry from the LASD as we found it in 1992. Indeed, its capacity to do so makes it a national model and leader among law enforcement agencies. Our intention is to lessen the risk that it might fall from that lofty height.

I. The Role of ICIB

The LASD's Internal Criminal Investigations Bureau has the exclusive authority to investigate all allegations of criminal misconduct committed in LASD jurisdiction by sworn personnel while on duty. It invariably exercises such authority when felonies are alleged but permits some misdemeanor allegations to be investigated at the unit level. ICIB also investigates allegations made against non-sworn LASD personnel.¹ ICIB will turn investigations that require special expertise, such as arson and homicide, over to the appropriate specialized unit. ICIB also regularly investigates allegations of criminal misconduct by members of other local police agencies whose departments are too small to warrant maintaining a specialized criminal investigations unit.

A. ICIB Data Collection

Beyond information on active cases, we found it difficult to gather statistical data on ICIB operations. While the Bureau keeps a database to track its active cases, it is not adept at using the database to derive data, produce statistics, or monitor trends in closed cases. We made what we thought would be routine requests for information, including the total

¹ For off-duty conduct by sworn personnel, ICIB will investigate all felony allegations but may elect to have the reporting unit investigate misdemeanor allegations. For non-sworn personnel, ICIB may investigate allegations of criminal misconduct committed while on duty but, again, may choose to let the reporting unit handle the investigation. Off-duty criminal conduct by non-sworn personnel generally is investigated by the unit that has jurisdiction over the incident, unless there is a conflict of interest, in which case ICIB will conduct the investigation.

number of closed cases in the prior three years, how those cases broke down by allegation, how many cases were presented to the District Attorney for possible filing, and how many of those actually were filed. In addition, we wanted to know the length of the average ICIB investigation and how long the DA typically holds a case before making a filing determination. Though ICIB commanders and staff were helpful and worked hard to accommodate us, none of this information was readily available. In the end, we hand-counted cases and tallied outcomes to obtain the data we needed. Although ICIB's Operations Lieutenant, Rod Kusch, reviewed and corrected or confirmed the accuracy of our numbers, the method of gathering them was less than ideal and left us with a number of ultimately irreconcilable discrepancies.

Although the ICIB database apparently contains all of the information we were looking for, it was created by an investigator who since has moved on to a different unit, leaving no one on the ICIB staff who knows how to use the database well enough to generate useful data. We have recommended to ICIB that, at a minimum, it sends one of its staff to appropriate training to enable their managers to make better use of the database. Ideally, ICIB should make use of Department-wide data resources to track its investigations.

We do not mean to imply that ICIB leadership does not know what goes on in the Bureau. On the contrary, Captain Mike McDermott and Lieutenant Kusch can speak in depth about all pending cases and retain impressive levels of detail about many prior cases. The Commander responsible for ICIB, Eric Smith, receives weekly updates on all active cases and reviews a closure memo on each closed investigation. Nonetheless, ICIB is not taking advantage of the resources available to it to better manage the Bureau.

B. ICIB's Caseload

ICIB investigates a wide variety of criminal allegations, from drunk driving and assaults during bar fights to rape, perjury and sale of narcotics. Although ICIB cases include allegations against civilian employees, custody assistants and, sometimes, higher-ranking officers, most ICIB investigations involve allegations of misconduct by deputies. As of June 30, 2005, ICIB had 29 active cases, 26 of which involved LASD employees. The LASD suspects included 21 deputies, one sergeant, one lieutenant, three custody assistants, and three civilian employees. The other three investigations were being conducted at the request of local police agencies. Of the 29 active cases, 24 were felony investigations, and eight were matters that had been referred to the District Attorney's office, where they are pending a DA decision or are in trial or pre-trial, leaving only 18 active ongoing investigations by ICIB of LASD personnel. ICIB currently has seven investigators and four investigator vacancies, so that each ICIB investigator carries a caseload, on average, of four active matters.

Between January 1, 2002 and June 30, 2005, ICIB closed approximately 307 investigations. ICIB currently has two categories of investigations: "Inquiries," for which ICIB assigns an investigator but then determines after some initial investigation that there is no reasonable suspicion of criminal wrongdoing and therefore closes them without assigning a case number; and "Cases," for which ICIB determines there is sufficient suspicion to warrant a more formal investigation. Beginning at least in 2004, ICIB informally began to track inquiries. ICIB additionally receives calls from unit commanders seeking advice about whether to request a criminal investigation. Those calls are not tracked unless they become an "inquiry" or a "case." ICIB recently eliminated this dual classification system and now assigns all investigations case numbers and subjects them to more formal documentation. Because this change will make tracking

ICIB investigations simpler and will eliminate much confusion, we support it.

Based on the best information we could gather, ICIB closed 244 cases and 63 inquiries between 2002 and the first half of 2005. A closed case is one in which ICIB has completed its investigation and either decided not to submit the matter to the DA or, after submitting the case, the DA rejected it for prosecution or filed charges which have been fully adjudicated in the criminal court. Those that are either awaiting a filing decision by the DA or are in pre-trial proceedings or trial are carried on ICIB's list of active cases. A closed inquiry, by definition, is never submitted to the DA and is closed with little formal investigation. We try throughout this chapter to refer to ICIB's "cases" and "inquiries," together, as "investigations" and to otherwise refer to "cases" as those matters that ICIB delineates as cases through the assignment of a case number.

From 2002 through 2004, ICIB investigations were spread fairly evenly across categories of allegations; and too few cases have been closed in 2005 to make any meaningful comparison. *See* Table 2.1. The highest percentage of cases is in the "Miscellaneous" category, encompassing a wide range of allegations – stalking, improperly disseminating information on an individual's criminal history, gambling, and improper possession of assault weapons.

We reviewed the criminal investigation files in a sample of roughly 25 percent of the 244 cases from the past three and a half years, representing all categories of investigations and with a variety of outcomes. For each of the 244 closed cases, we reviewed a summary pulled from the ICIB database containing information about the allegations and the dispositions of all these cases. Based on that information, we calculated that the average length of an ICIB investigation is around 100 days. ICIB has a goal to complete investigations within 90 days and is easily meeting that goal this

year. The three investigations into 2005 cases closed in the first half of this year took an average of just 30 days.

C. Declining Number of ICIB Investigations

ICIB's caseload has dropped substantially since 2002. The Bureau closed 117 investigations of cases opened in 2002, but in the first half of this year, closed just four investigations into 2005 cases.² See Table 2.1. The most favorable explanation for this decline is that ICIB has become more selective in its intake function. The Internal Affairs Bureau has had no corresponding drop in activity, so it does not seem the decline in ICIB

Table 2.1 **ICIB Closed Investigations, 2002-2005**

	2002	2003	2004	2005 as of 6/30/05	Total 1/1/02 to 6/30/05
Total Cases*	117	117	69	4	307
Primary Allegation	Percent of Total	Percent of Total	Percent of Total	Percent of Total	Percent of Total
Assault	10.3%	6.8%	11.6%	0.0%	9.1%
Assault under color of authority	12.0%	7.7%	8.7%	0.0%	9.4%
Domestic violence	12.0%	7.7%	11.6%	25.0%	10.7%
Miscellaneous	18.8%	21.4%	17.4%	50.0%	19.9%
Narcotics	11.1%	7.7%	14.5%	0.0%	10.7%
Perjury/False report	8.5%	9.4%	8.7%	0.0%	8.8%
Sex crimes	12.8%	23.1%	10.1%	0.0%	16.0%
Theft	13.7%	14.5%	15.9%	25.0%	15.0%
Vehicle code	0.9%	1.7%	1.4%	0.0%	1.3%

* Total cases opened in a given year that subsequently have been closed.

Source: LASD Internal Criminal Investigations Bureau

² ICIB provided data by the year in which a case was opened, not closed. That is, 117 cases that were opened in 2002 have subsequently been closed, though some certainly were closed in 2003 or later. Likewise, ICIB closed just four 2005 cases from January 1 through June 30, 2005, but also completed investigations in some outstanding 2004 cases during that time.

investigations is attributable solely to improved performance by deputies. An ICIB case generally begins with a phone call from a unit commander to the Operations Lieutenant at ICIB, currently Lieutenant Kusch. If, after the unit commander has laid out the factual basis of the allegations against the involved employee and received Lieutenant Kusch's input, the unit commander decides to proceed with an ICIB investigation, the unit commander is required to formally request ICIB involvement through an LASD form memo.

Prior operations lieutenants reportedly would agree to open an investigation on nearly every call that came in. When Lieutenant Kusch assumed that role in 2004, he adopted a different strategy. Instead of opening an investigation every time a unit commander calls, he focuses on whether there is "reasonable suspicion" to believe a crime has occurred. Lieutenant Kusch challenges the unit commander to tell him about the facts of his case and talks with him or her about how those facts could establish the elements of a crime. He may tell the unit commander about a similar case, with equally or more compelling evidence or witnesses, that ICIB investigated but the DA declined to prosecute. At the end of such a conversation, the unit commander quite often decides not to request a criminal investigation but may investigate the allegation at the unit level and propose administrative remedies or request IAB involvement. In the future, that unit commander is less likely to call ICIB at all.

The sharp decline in ICIB investigations speaks to the frequency with which unit commanders are discouraged in this manner, rightly or wrongly, from seeking ICIB investigations. ICIB leaders bristle at the suggestion that they are discouraging unit commanders from requesting criminal investigations, emphasizing their compliance with the requirement that they investigate only where there is reasonable suspicion and noting: "There are plenty of cases that belong here. We don't hesitate to take them and investigate them."

Certainly one could view ICIB's discriminating investigation intake practice as a good use of resources. If the District Attorney will reject more than 75 percent of the cases presented for prosecution any way, ICIB is saving every one time and money by avoiding all but the most promising investigations, this argument goes. If this were an adequate explanation, however, only the best, most carefully -selected investigations would go to the DA. As a result, the percentage of LASD cases the DA chooses to prosecute would be going up even as the overall number of investigations declines. Instead, a smaller percentage of proffered LASD cases was selected for prosecution by the DA in 2004 than in either 2002 or 2003.³ See Table 2.2. If ICIB was effectively screening cases so that only the most egregious and well-supported allegations are investigated, one would expect that the Bureau would be more successful in getting the DA to file charges.

Table 2.2 District Attorney Dispositions, ICIB Investigations

	2002	2003	2004	2005 as of June 30
Closed Investigations	117	117	69	4
Cases sent to DA	72	62	32	2
<i>Percentage of total</i>	<i>61.5%</i>	<i>53.0%</i>	<i>46.4%</i>	<i>50.0%</i>
Criminal complaints filed by DA	18*	13	4	0
<i>Percentage of cases sent to DA</i>	<i>25.0%</i>	<i>21.0%</i>	<i>12.5%</i>	<i>0.0%</i>
Cases DA rejected for filing	54	49	27	2
<i>Percentage of cases sent to DA</i>	<i>75.0%</i>	<i>79.0%</i>	<i>84.4%</i>	<i>100%</i>
DA decision pending	0	0	1	0
<i>Percentage of cases sent to DA</i>	<i>0.0%</i>	<i>0.0%</i>	<i>3.1%</i>	<i>0.0%</i>

* Includes 2 cases filed in federal court by the U.S. Attorney.

Source: LASD Internal Criminal Investigations Bureau

³ Certainly, other factors could account for this drop, such as a change in personnel or philosophy at the District Attorney's office, and we have not investigated those possibilities enough to make any significant conclusions.

Recognizing that most cases will not get filed criminally, ICIB is using the intake process in effect to shift the focus to administrative investigations, preserving its resources for the most serious investigations. Given that this speeds up the administrative investigation process, we are not eager to criticize ICIB for its selective case intake and reduced numbers. Nonetheless, we have concerns about the systematic practice of discouraging criminal investigations because it is too dependent on the judgment and good faith of the decisionmakers involved.

First, ICIB's current approach to case intake depends on unit commanders to pursue administrative remedies in cases where ICIB does not open a formal criminal investigation. Current LASD procedure does not require the unit commanders to do so. In addition, ICIB's selective intake process provides little assurance that serious charges of criminal misconduct are not improperly turned away. Because ICIB does not track calls it receives from unit commanders regarding criminal allegations, it is not possible to make a judgment whether legitimate requests for investigations are being discouraged by ICIB. This is not to say that we have any reason whatsoever to question Lieutenant Kusch's bona fides or to conclude that ICIB leaders are not exercising their authority appropriately. We must reiterate, however, that we have serious difficulty with a system so contingent upon the unreviewable discretion of one individual.

As a result, we worry that too great a number of misconduct allegations are not being investigated criminally or administratively. We recommend that ICIB track every instance in which it is consulted and no case or inquiry is opened and provide a written explanation for the decision to not open an investigation.

II. The District Attorney's Role

When ICIB has completed its investigation, it makes a determination whether there is probable cause to believe that a crime has been committed and the accused individual has committed it. When ICIB believes there is probable cause, it submits the case to the Justice System Integrity Division (JSID) of the District Attorney's office for consideration of filing criminal charges. We note that ICIB has a policy to consult with the DA's office prior to deciding not to make a formal submission. The Office of Independent Review also does some tracking of ICIB cases. Both of these steps provide some assurance that provable criminal cases are not lost in the shuffle.

With a few exceptions, JSID is responsible for prosecuting allegations of criminal misconduct committed by peace officers. JSID also investigates and considers for prosecution all officer involved shootings that result in death or injury and all custody force cases that result in an inmate's death. The data on filing rates and investigation times provided here do not include any data concerning shootings or in-custody deaths. Roughly half of the investigations closed by ICIB over the past several years ended with ICIB submitting the matter to JSID for consideration of filing criminal charges against the accused employee. Very few of those matters result in criminal prosecutions. The DA's office filed criminal charges in just 18 ICIB cases from 2002, or 25 percent of the cases submitted to it. There were 13 prosecutions in 2003 cases, or 21 percent of those submitted. In 2004, the DA filed charges in just four cases, 12.5 percent of the 32 cases submitted. As of June 30, 2005, ICIB has submitted just two 2005 cases to the DA for filing consideration, neither of which resulted in a criminal prosecution. *See* Table 2.2.

The DA's apparent reluctance to prosecute cases against law enforcement officers is a frustrating fact of life for ICIB investigators and commanders. Among the cases we reviewed, there were some that stood out as

examples of solid cases that ICIB worked hard to put together but the DA nonetheless refused to prosecute.

In one, a deputy was accused of perjury. The deputy testified at trial that he had been in the patrol car with the witnesses at a field show-up and could corroborate the witnesses' identification of the suspect. Another deputy, on vacation at the time of the trial, previously had told the Assistant District Attorney prosecuting the case that he was the only officer present for the show-up. That second deputy later reaffirmed his statement that the accused deputy was not present in the patrol car at the time he conducted the show-up. Three civilian witnesses, including one civilian who was a ride-along passenger in the patrol car during the field identification, provided statements that the deputy was not in the car during the show-up. It is difficult to imagine a more solid perjury case, yet the JSID lawyer handling the matter found that reasonable doubt existed about the likelihood of winning a conviction and declined to prosecute. If this alleged perjury case, with four credible witnesses consistently saying the deputy's clearly material testimony was untruthful, was insufficient to warrant a criminal prosecution, it seems unlikely the DA will ever prosecute a deputy for perjury.⁴

In another example of a JSID rejection frustrating the ICIB staff who worked the case, a deputy was accused of stealing \$6,000 that had been in a suspect's possession. The suspect originally was held by another law enforcement agency at the termination of a pursuit, but was transferred to LASD custody. Upon that transfer, the outside officer recorded \$8,000 on his department's property release form. The accused LASD deputy received the suspect's money and booked \$2,000. The suspect obviously complained when she later recovered her property. JSID declined

⁴ Following the DA's rejection, IAB wisely investigated the case and the Department imposed substantial discipline on the subject deputy.

prosecution. Because there was no independent witness to the transfer of money, the prosecutor was concerned that the LASD deputy could argue that he only received \$2,000 and it was the outside officer who stole the suspect's money. The LASD deputy resigned just prior to being compelled to provide a statement to IAB investigators.

A related source of concern is the length of time the DA's office takes before deciding not to prosecute, as that delays the commencement of any administrative investigation. ICIB has been working successfully with JSID to shorten the time to obtain a filing decision on a case. In 2002, JSID held cases for an average of roughly 95 days. In 2003, the number went up slightly, to around 115 days, and then dropped to around 80 days in 2004.⁵ The two cases rejected for filing so far in 2005 were referred by JSID to branch DA offices and were quickly rejected.⁶

The best explanation for the diminishing backlog of cases awaiting a decision by the DA is ICIB's diminishing caseload. In the past, a larger number and a greater percentage of cases was submitted to JSID. Fewer than half (46.4 percent) of the investigations ICIB closed in 2004 went to the DA, as compared to 61.5 percent and 53 percent in 2002 and 2003, respectively. The numbers for 2005 are too low to make any meaningful comparisons. With fewer cases submitted for consideration, it is easier for ICIB personnel to pressure JSID for quick decisions and more difficult for JSID to justify substantial delays.

⁵ These numbers represent our best estimates based on our own counts and calculations from the database printouts provided by ICIB. However, despite ICIB's best efforts to provide a printout for every closed case, we cannot be certain we are not missing some small number, nor are we confident, given other mistakes we've seen in the ICIB database, that all of the relevant dates were properly entered.

⁶ Branch offices typically file or reject cases within one or two days of receiving them. When tabulating the data concerning the length of time an ICIB case awaits a decision by the DA, we did not count branch office cases.

III. Internal Criminal Investigations and Internal Affairs

Though they answer to the same commander and chief, ICIB functions separately from the Internal Affairs Bureau (IAB). ICIB's role is to determine whether there is probable cause to believe the Department member committed a crime and, if so, to present evidence of that crime to the District Attorney for prosecution. IAB, of course, operates with a completely different purpose – to investigate allegations of misconduct to determine whether personnel should be disciplined administratively.

A. Tracking ICIB Cases

While IAB investigators do not get involved in ICIB investigations, IAB often assigns an investigator to be a “criminal monitor” of an ICIB case, meaning only that the IAB investigator gives the case an IAB number and tracks its progress.⁷ In addition, the IAB involvement is recorded in the Personnel Performance Index (PPI). The Department, the public, and IAB benefit from this role in several ways. First, after tracking a criminal case, IAB is well positioned to expeditiously investigate the allegations administratively, if necessary. In addition, there may be evidence of a non-criminal policy violation buried in the criminal file that the ICIB investigator might understandably overlook. By the time the criminal investigation is completed and the DA has decided whether to file criminal charges, the statutory time to file administrative charges may have expired. Most importantly, the presence of an IAB investigator provides the best assurance that allegations are not overlooked administratively after ICIB

⁷ IAB will also assign a monitor to any criminal case against an LASD employee being investigated by another agency when, for example, the crime occurred outside of LASD jurisdiction. The use of criminal monitors is particularly important in these cases, where the IAB investigator has the opportunity to shape the investigation if necessary. In one example we heard, an IAB investigator working as a criminal monitor contacted the investigating agency to ask them to preserve certain forensic evidence and offered use of the LASD lab to perform a DNA analysis. Without that contact, the evidence likely would have been lost or destroyed.

closes its criminal investigation. Currently, the only way criminal investigations are tracked in the PPI is through assignment of criminal monitors.

Unfortunately, the separation between ICIB and IAB results in a requirement that unit commanders make separate requests for an ICIB investigation and an IAB monitor. Therefore, a unit commander who sends a memo to ICIB requesting a criminal investigation into an employee's conduct must also send a separate memo to IAB requesting assignment of a criminal monitor. The required form memo is neither long nor burdensome to complete, and ICIB reminds the unit commander to submit a request to IAB for a criminal monitor at the time he or she initiates a criminal investigation. Nonetheless, this requirement is not infrequently overlooked by unit commanders. The result is that ICIB can close a case and, if no administrative investigation is initiated, IAB has no record of the criminal allegations and there is no indication in the accused employee's PPI record that he or she has been the subject of a criminal investigation.

IAB does not automatically proceed with an administrative investigation after ICIB has completed its criminal investigation. Instead, ICIB returns the matter to the involved employee's unit for a decision about whether to conduct a unit-level administrative investigation, request that IAB perform an investigation, or let the matter drop. When an investigation is closed, either for lack of probable cause or because the DA has declined prosecution, ICIB investigators and commanders take a number of steps to inform the appropriate decisionmakers that the criminal case is over. The ICIB investigator sends an e-mail to the involved employee's unit commander and the unit's operations lieutenant and operations sergeant to informally advise them of the outcome of the investigation and, in most cases, the investigator meets personally with one or more of these individuals. More formally, Commander Smith sends a closure memo to the involved employee's division chief. The memo details the allegations

against the employee and the outcome of the investigation, and reminds the chief that it is the unit's responsibility to initiate an administrative investigation on its own or to request IAB to investigate the allegations. Finally, ICIB policy calls for the ICIB investigator to brief the IAB Operations Lieutenant and send a follow-up e-mail to him or her, as well as to the IAB Team Lieutenant and the criminal monitor, if any, regarding the outcome of the criminal investigation. If it is a case which IAB believes it should handle, IAB may contact the unit commander to remind him or her to send a formal request for investigation.

Despite all of these notifications and briefings, there are instances in which the proverbial ball gets dropped. For example, we found one case where the DA declined to prosecute and ICIB closed the criminal investigation into a serious allegation of criminal wrongdoing (improper sexual contact with an inmate worker), sent its usual memos, and yet, six months later, the unit commander had made no request for an administrative investigation and no one in IAB was aware of or following up on the case because no IAB investigator had been requested or assigned to monitor the ICIB case.

To prevent such oversights, we recommended the assignment of criminal monitors in IAB be made automatic upon the opening of an ICIB investigation, and not dependent on a request from a unit commander. The Department was receptive to this suggestion and has changed its procedure to automatically open administrative files on ICIB cases, without a specific request from the unit.

On the whole, however, by leaving the initial decision whether to open an IAB or ICIB investigation to the unit commander in most cases, the LASD is taking too great a chance that an allegation of misconduct will be overlooked. In addition to changing the rules for appointment of criminal monitors, the LASD should change its policy to ensure that all cases involving possible criminal misconduct receive at least minimal scrutiny

by both ICIB and IAB. To that end, we recommend that IAB be required to review for possible administrative violations all instances where a unit commander has alerted ICIB to possible criminal misconduct. If ICIB does not proceed with a criminal investigation, IAB may decide to start an administrative investigation and should have the authority to do so without a formal request from the involved unit commander. If appropriate, the two bureaus may proceed with parallel investigations. We recognize the extra burden this will place on IAB and therefore recommend that it be given appropriate additional resources if necessary.

Additionally, we recommend that ICIB investigations be logged in employees' PPI files. Currently, there is no simple way to check the subsequent administrative outcome of a particular criminal investigation because the two are not linked in any formal way. There is understandable resistance to having the existence of an open or ongoing criminal investigation register in the PPI because of the potential for compromising any planned covert or undercover operations. Indeed, when IAB assigns a criminal monitor, it enters the case into the PPI but masks the data so only authorized IAB personnel can access it. After a criminal investigation is closed, however, we have heard from the Department no explanation why its outcome cannot or should not be tracked in the PPI. Certainly the existence of criminal allegations against an employee is relevant to the PPI's central function – early identification of personnel and patterns of misconduct that the Department needs to address and correct.

B. Criminal vs. Administrative Outcomes

The Department's failures to include ICIB investigations as a module in the PPI, to demand of ICIB more systematic data keeping and monitoring of trends, and to be troubled by ICIB's diminishing caseload are all indications of the LASD's relative lack of regard for criminal investigations.

In general, the LASD places greater emphasis on administrative outcomes than criminal prosecutions, leaving ICIB, according to one executive, an “out of sight, out of mind operation.”

In a few cases, a deputy accused of criminal wrongdoing resigns, apparently heading off a potential criminal prosecution. While this is not pursuant to any formal deal-making by ICIB or the DA’s office, it does seem to be a response to a tacit understanding that the DA may be less interested in prosecuting someone who has voluntarily left the LASD than a deputy still employed as a law enforcement officer. We have some concerns that such a deputy will be able to walk away from the LASD and, with no felony criminal record, successfully become a police officer in another department, though when asked, ICIB reports to background investigators from other agencies that the deputy resigned immediately following an investigation into the deputy’s allegedly criminal misconduct. Of course, recording the existence of a criminal investigation in a deputy’s PPI file would eliminate all doubt about a prospective employer’s ability to uncover important circumstances surrounding a deputy’s departure from the LASD.

In some cases, a deputy’s resignation causes a criminal investigation to lose momentum. For example, in one case a custody assistant was alleged to have had consensual sex with female inmates at one of the County jail facilities. He allegedly set up his encounters through an inmate worker, with whom he would exchange cigarettes and other contraband for the opportunity to be “hooked up” with inmates he found attractive. One inmate, whose friend reported the incident after she, too, had been propositioned, admitted to having intercourse with the accused custody assistant in a closet at the jail. When confronted with the accusation, the custody assistant invoked his Fifth Amendment rights. He was placed on administrative leave and then resigned. The inmate who admitted to having

sex with the custody assistant decided she did not want to pursue the matter. JSID recognized it had a solid prosecution for violation of the penal code section criminalizing even consensual sex between a jailer and an inmate, but cited its policy of not forcing victims of sex crimes to cooperate with the prosecution as justification for its refusal to file criminal charges. Though the accused custody assistant reportedly had sex with other female inmates under similar circumstances, ICIB made no effort to investigate these allegations. Instead, the Department apparently was satisfied with the employee's speedy resignation.

To be fair to ICIB, its conduct in that case was consistent with an implied mandate from the Department that it is more important to get such bad actors off the pay roll than to force them to face criminal prosecution. While we appreciate the Department's desire to deal with its employees' bad behavior internally, we quarrel with the Department's shift from a criminal to an administrative focus in certain cases, such as the above example, where a criminal sanction fits the misconduct.

On a practical level, the focus on administrative outcomes works well for the Department. The DA rejects roughly 80 percent of the cases submitted to it by ICIB and takes, on average, 60 to 90 days to do so. Because the Department must wait for the DA's decision before proceeding with an administrative investigation, an ICIB case that does not lead to a criminal filing delays an administrative finding by at least five to six months (counting the time during which ICIB is investigating), after which discipline loses some of its meaning. Many cases that are filed by the DA result in plea agreements pursuant to which the employee gets no more than a fine and probationary term. In cases where the DA files charges but does not win a conviction, the impact on the administrative case can be great, as the Department loses much of its will and power to discipline in the face of an acquittal, though the verdict may be more a function of juries' well-

known reluctance to convict police officers than a judgment on the facts of a case. The Department's calculus is that in most cases where such a remedy is appropriate, it is better to fire or take a deputy's resignation at the outset rather than wait for a criminal investigation and determination by the DA, when it is apparent from the beginning that either the DA will not file a case or the result will be minimal criminal punishment.

While we cannot fault the Department for its reluctance to wait for DA filing decisions, we disagree with its practice of minimizing criminal investigations in favor of administrative outcomes, by both screening cases out at intake and tacitly settling for resignations rather than criminal sanctions. The better practice would be to conduct parallel but uncontaminated administrative and criminal investigations, compelling the officer to make a statement early in the investigation.⁸

At least in the abstract, the practice of shifting responsibility away from the criminal justice system, controlled by the courts and the DA, to the Department's own disciplinary system, is troubling because the potential for abuse is so great. While we currently trust the Department to get this balance right, as we said above, a system that is dependent on the discretion of given personnel is no system at all. People change jobs in the LASD with such frequency that one must rely on rules and procedures to provide continuity.

⁸ We argue in Chapter 4 that in shooting cases there is no need to wait for a DA declination before proceeding with an administrative case. The same is true for investigation of other types of alleged criminal misconduct. The Department, with County Counsel, should work to overcome the 1991 settlement agreement between the Department and the deputy's union called *Gates and Johnson* that currently stands as an impediment to proceeding with administrative disciplinary action prior to the DA's filing decision.

IV. Comparison of the LAPD and LASD on Internal Criminal Investigations

As described above, the internal affairs function in the LASD is divided between criminal investigations of officer misconduct and administrative investigations. IAB conducts the administrative investigations, and responsibility for ferreting out criminal activity falls to ICIB. Each Bureau is headed by a captain. IAB and ICIB each report to the same commander and chief, currently Commander Eric Smith and Chief William McSweeney. Chief McSweeney reports directly to the Undersheriff.

The LAPD's investigative divisions report to one commander who in turn reports to a deputy chief. In the LAPD, the Professional Standards Bureau is headed by Deputy Chief Michael Berkow who, in turn, reports directly to Chief Bratton. Under Chief Berkow is the Internal Affairs Group (IAG), headed by a commander. IAG is broken down into the Internal Affairs Division and Criminal Investigation Division (CID). Also under Chief Berkow is the Special Operations Division (SOD), headed by a captain. Within SOD, there is the Ethics Enforcement Section (EES), headed by a lieutenant. EES works along with CID to conduct integrity tests, or sting operations, to identify and investigate officer misconduct.

ICIB has eleven budgeted investigator positions, with four vacancies, and, as of June 30, 2005, a docket of 21 ongoing criminal investigations in a universe of approximately 14,000 LASD employees, of whom about 8,200 are sworn. By comparison, the LAPD's CID has 60 criminal investigators, with a caseload of around 500 to 600 active criminal investigations in a universe of more than 12,000 LAPD employees, of whom approximately 9,100 are sworn.

ICIB also has a surveillance team of six budgeted deputy positions and one sergeant. The team's primary role is to support ICIB investigations by running covert operations when needed, though its deputies are occa-

sionally assigned to participate in IAB or Homicide investigations. LAPD's Special Operations Division and Ethics Enforcement Section, charged with conducting integrity tests as well as other undercover operations, has its own captain and lieutenant, with 20 sergeants and 11 detectives assigned to the division. It also frequently pulls police officers from other assignments to assist with a given operation.

The LAPD's Internal Affairs Group receives approximately 6,000 complaints of employee misconduct per year. Of those, over the past few years, 40 to 45 percent are formally investigated by IAG. Approximately one-third to one-half of those formal investigations is assigned to the Criminal Investigations Division.⁹

Table 2.3
ICIB/LASD and CID/LAPD Investigations and Prosecutions

	2004		2005 as of June 30	
	ICIB	CID	ICIB	CID
Cases initiated	77	582	21	713
Cases sent to prosecutors	32	109	4	10
<i>Percent of total cases initiated</i>	41.6%	18.7%	19.0%	1.4%
Cases rejected by prosecutors	27	84	3	2
<i>Percent of cases sent to prosecutors</i>	84.4%	77.1%	75.0%	20.0%
Cases filed by prosecutors	4	13	0	6
<i>Percent of cases sent to prosecutors</i>	12.5%	11.9%	0.0%	60.0%
Cases pending with prosecutors	1	10	1	2
<i>Percent of cases sent to prosecutors</i>	3.1%	9.2%	25.0%	20.0%

Source: LASD Internal Criminal Investigations Bureau; LAPD Internal Affairs Group

⁹ Because of reorganization in CID and changes in the way it keeps data, it is difficult to get precise numbers for years prior to 2004.

In 2004, the LASD received approximately 4,800 complaints of employee misconduct. Of these, 46 percent were considered personnel complaints and 16 percent were deemed service complaints. The balance were internally generated. Of the personnel complaints, fewer than one percent were formally investigated by IAB. The rest were investigated at the station or unit level. Of the internally generated complaints, around 20 percent were investigated by IAB. The remainder were handled at the unit level. Some of these complaints were investigated by ICIB prior to the IAB or unit level administrative investigation, but ICIB does not formally track the source of complaints.

The LAPD referred 109 cases initiated in 2004 to the District Attorney and City Attorney for possible prosecution. The LASD referred 32 cases from 2004 to the DA (it does not refer cases to the Los Angeles City Attorney). The two agencies have roughly the same percentage of referred cases rejected for prosecution. Table 2.3 further contrasts the two law enforcement agencies with respect to their records of prosecutions.

To be sure, there are significant differences between the two agencies that account for the disparities between their respective caseloads. The consent decree limits the LAPD's flexibility in how it investigates internal and external complaints whereas the LASD is not so constrained. For one, the LAPD is mandated to conduct a criminal investigation of allegations of excessive force, as opposed to the LASD, which will more likely conduct an administrative investigation unless the injuries to the suspect are grave. Also, a greater number of citizen's complaints are investigated at the LAPD's IAG level than are investigated by IAB and ICIB in the LASD because LASD unit commanders have the discretion to investigate and resolve complaints at the station. In the LAPD, supervisors must refer all citizen's complaints to IAG.

In addition, the LASD treats some citizen's complaints as "service complaints" against the Department and not as personnel complaints against individual officers. We found in the past that some personnel complaints were mischaracterized as service complaints to shield the officer. The LAPD does not make the same distinctions between personnel and service complaints.

ICIB's discretion and method of tracking cases also makes comparisons difficult. As we discussed above, ICIB has the ability essentially to turn cases away by encouraging unit commanders to perform their own investigations and pursue administrative remedies. ICIB does not keep track of how many of these informal inquiries it receives that do not lead to formal investigation. As a result of the consent decree, LAPD's CID does not have equivalent discretion. The contrast between the dockets of the two agencies is nonetheless striking. ICIB seems to be a sleepy backwater as compared to its equivalent in the LAPD.

V. Sting Operations

One area in which the LASD takes a very different approach from the LAPD is in the use of sting operations. The LAPD conducted over 120 targeted and random integrity tests in 2004 and conducted more than 80 in the first half of 2005. By contrast, the LASD uses its surveillance team to conduct undercover operations in some investigations, but does not formally tally these operations.

The Sheriff's Department, in partnership with the FBI, made widespread use of stings in the Big Spender scandal of the late 1980's. In Big Spender, corrupt officers in the Narcotics Division were caught dealing drugs, planting evidence, and stealing money, among other illegal activities. After the scandal was discovered, 19 deputies and a half-dozen of their friends and relatives were convicted of crimes based upon the evidence from the stings.

At the beginning of our research for this chapter, ICIB leaders and LASD executives told us that the Sheriff currently opposes all types of random stings or integrity tests. In our conversation with the Sheriff on the subject, he reserved judgment about random stings but took the justifiable position that targeted stings were appropriate if there is a reasonable basis to believe a particular officer is engaging in criminal misconduct and a sting can be conducted safely. We agree with the Sheriff, in part. For the reasons set forth below, we endorse targeted testing, but also argue the Department should conduct random stings to test whether its personnel are properly taking and reporting citizen's complaints.

A. NYPD and LAPD Experiences with Sting Operations

The New York Police Department (NYPD) and the LAPD are the two largest police departments which make frequent use of random and targeted integrity checks or stings. The LAPD's Consent Decree with the U.S. Department of Justice specifically requires in paragraph 97 that the LAPD: *shall develop and initiate a plan for organizing and executing regular, targeted, and random integrity audit checks, or sting operations, to identify and investigate officers engaging in at-risk behavior, including: unlawful stops, searches, seizures (including false arrests), [and] uses of excessive force.... These operations shall also seek to identify officers who discourage the filing of a complaint or fail to report misconduct or complaints.*

When the LAPD's CID receives credible information about a specific officer's involvement in criminal misconduct, and an undercover operation is feasible, a targeted sting operation may occur. For example, if CID has credible evidence that a particular officer steals cash when he finds a vehicle containing alleged drug money, CID, with help from EES, will use hidden cameras to record on tape what the officer does when he comes across a car planted with a large amount of cash in the trunk. The results of the

sting operation will either exonerate or implicate the accused officer. In contrast, a random sting tests the integrity of police officers in general: Several officers selected at random will be confronted with cars full of cash to see if any one is tempted to steal.

NYPD Chief of Internal Affairs Charles Campisi has stated that about one out of every 100 police officers “committed a crime when given an integrity test set up by his Bureau. The integrity test has an undercover cop pose as a tourist who finds a wallet full of money, for instance. If the cop being tested doesn’t report being given the wallet by the tourist, he or she fails the test.” *Western Queens Gazette*, borough of Queens, New York, p. 1, April 20, 2005.

Integrity testing in the LAPD is performed by the Ethics Enforcement Section of the Special Operations Division of PSB under the direction of Captain James Bower. The process for deciding which cases to pursue as targeted stings begins with a CID review of all complaints the LAPD receives. Those cases that may be appropriate for targeted stings are forwarded to EES. In the interim, EES conducts its own search by independently reviewing the cover sheets (face sheets) of all complaints IAG has received. Other sources of information for targeted stings include referrals from area commanders, the LAPD Audit Division, the Risk Management Group, and boards tasked with investigating uses of force. Additionally, EES maintains a database to track all complaints coming in, so that it and the rest of IAG can run complainants’ and subject officers’ names against past and pending complaints for matches and to evaluate the efficacy of or need for a sting. EES also checks for patterns and trends in a database tracking use of force by LAPD divisions. EES rejects about 10 percent of cases referred to it for possible sting tests. Where CID and EES perceive a pattern or practice of criminal misconduct involving many officers or an entire unit, a task force is put together in which multiple

stings may take place in a single day. These task force operations obviously require extraordinary skill and coordination and may last for many months.

EES conducts random or targeted integrity checks to detect unlawful stops and arrests, along with unconstitutional searches and seizures. It also conducts stings to uncover excessive force, theft, sexual misconduct, and failure to take or properly report citizen's complaints. There is an approximate 12 percent failure rate on random stings to detect LAPD officers who refuse to take complaints or who react to the complainant in a hostile or threatening manner. That is, 88 percent of officers responded in accordance with LAPD policy. Random stings in other areas result in a two to five percent failure rate, depending on the year. The failure rate on targeted stings is around 70 percent, meaning just 30 percent of officers tested comply with the law or department policy. This high failure rate is evidence of the overall accuracy and skill of EES and the legitimacy of the complaints to which the unit responds. Over time, the LAPD has found more use for targeted stings and hence conducts fewer random integrity checks. A lieutenant recently in charge of EES contends that sting operations have not been received hostilely by rank-and-file officers because they are not going after "lots of little things" and thus are not seen as "out to get" officers. Rather, the stings are viewed as an important tool in cleaning up the kinds of problems that have caused embarrassment to the LAPD.

B. Undercover Operations in the LASD

Two cases – one from the LAPD's CID and one from LASD's ICIB – demonstrate well the distinction between the departments' divergent approaches to undercover operations. In the ICIB case, from 2004, a convicted prostitute alleged that a deputy approached her as she was walking down the street. He was in uniform and in a radio car. He performed a pat down search, then reached into her bra and allegedly fondled her. He put

her in the backseat of his patrol car and as he ran her identification on his MDT, asked what she would do for him if he did a favor for her. Several times he asked her for a good reason why he should not take her to jail. He then got out of the car and searched her again, rubbing his hand over her crotch and again fondling her breasts. She alleged that he then put her back in the car, told her to lie down, and drove her to a park. He got out of the car and asked her to show him her breasts and to perform oral copulation. She did so, she reported, because she believed she would be arrested if she refused.

During the investigation into this incident, ICIB investigators interviewed a number of known prostitutes in the area to see if any had a similar encounter in the past. They heard numerous reports from prostitutes of inappropriate searches and sexual contact by a lone deputy roughly matching the accused deputy's description, though none of the victims were able to conclusively identify him from a photo lineup. In addition, ICIB turned up a memo, dated two months earlier, from a deputy who reported that two different prostitutes had approached him and his partner to complain about inappropriate searches conducted by a deputy who roughly matched the accused deputy's description. They did not want to make a formal complaint because they feared retaliation from deputies, so they did not view a lineup and the deputies who made the report could not remember the names of the prostitutes.¹⁰

At this point, ICIB investigators made the decision to confront the accused deputy with the allegation. Of course, he invoked his right to counsel, and shortly thereafter submitted to ICIB a written statement admitting he had received oral sex from and had intercourse with a prostitute, but argued that it was consensual. The accused deputy resigned

¹⁰ We are concerned about the fact this memo apparently was buried and never reported to ICIB or otherwise acted upon. We intend in a future report to examine how unit commanders are handling internal reports of misconduct by their subordinates.

from the Department. JSID declined prosecution because the case was simply a credibility battle between the deputy and the prostitute with no independent witnesses or physical evidence.

In a similar case, LAPD's Internal Affairs Group received a number of sporadic complaints from prostitutes that an on-duty LAPD officer had raped them. The information provided concerning these incidents was sketchy and not always consistent. No particular officer was identified by any of the women. Yet, when EES reviewed these complaints, its investigators noticed a pattern of specific words used by the perpetrator with each of the victims. Through follow-up detective work, the investigators were able to identify a suspect and then set up several sting operations. In one, the suspect used the same unique phrase with the undercover officer as he had with the prostitute victims. That corroboration from a police officer was enough to convince JSID to file charges against the officer. The officer was convicted on 14 counts of sexual assault under color of authority and received a lengthy prison sentence.

The DA was willing to file charges against the LAPD officer largely because of the evidence obtained via the sting operations. By contrast, in the LASD case, the DA was not willing to prosecute a deputy based on the word of a prostitute. If the LASD had initiated an undercover operation in an attempt to corroborate the victim's account, the outcome might have been different. This is not to imply that ICIB investigators did not work hard on this case. On the contrary, they spent many hours canvassing the area for women who had similar encounters with a deputy. The failure to conduct a sting operation was not the result of laziness or an indication they did not take the criminal allegations seriously, but rather the product of a culture that does not commonly think of using stings to target deputies engaged in misconduct.

We also do not mean to suggest that ICIB never conducts undercover operations when appropriate. In a number of cases we reviewed, investigators used surveillance teams, and occasionally set up sting operations. Use of these tactics, however, was more the exception than the rule, and did not often lead to successful prosecution.

On the other hand, the LAPD's CID and EES have had a number of notable successes in prosecutions based upon sting operations in addition to the one referenced above. Those cases include a West Valley patrol officer who was convicted through a sting operation of possession of illegal assault weapons and a Foothill officer who was convicted of sexual assault by proof developed through a targeted sting. Currently, there are charges pending against a Narcotics Division detective caught by EES on tape engaged in theft while on duty. In fact, in 2004, nearly 30 percent of the criminal cases filed by the DA against LAPD officers involved the use of a targeted sting conducted by EES. In 25 percent of the cases filed in the first half of 2005, the LAPD officer was implicated in an EES sting operation.

C. Pros and Cons of Sting Operations

According to proponents, the rationales in favor of sting operations include:

- Stings chill police misconduct because police officers never know when they are going to be the subject of a sting.
- It is much easier for a prosecutor to convict a police officer when his or her misconduct is caught on tape and witnessed by other police officers. By providing direct evidence of who was lying, it makes prosecutable cases of "he said/she said" that are otherwise difficult to win in court because they turn solely on credibility.
- A sting operation can rehabilitate a police officer who has been falsely accused.

- Sting operations quickly get dirty cops off the streets.

Opponents of sting operations contend:

- Sting operations undermine morale among rank-and-file officers.
- Stings suggest that police management lacks trust and is suspicious of its own rank-and-file officers, leading to an overall atmosphere of mistrust.
- Stings put officers on edge and cause them to worry that Big Brother is always watching.
- Developing solid proof for prosecution limits management from deciding that it is in the Department's interest to have an officer fired or resign from a force rather than face jail time.

Our analysis of these arguments begins with an assessment of risk and how best to manage it. Criminal misconduct and abuse of authority may be a rare occurrence in law enforcement – but when it does happen, it is devastating. One need look no further than the investigations of the NYPD by the Knapp and Mollen Commissions or the investigations of the LAPD by the Christopher and Rampart Commissions or the LASD's Big Spender scandal. While we take it as an article of faith that most police officers are skilled, honest, dedicated, and hard-working, it would be foolish to put one's head in the sand and deny that corrupt, brutal, predatory, and dishonest cops exist in law enforcement agencies, large and small. Statistical data from the LAPD and the NYPD suggest that one to five percent of officers tested will fail a random integrity test and that 70 percent will fail a targeted sting.

The certain existence of rotten apples puts a law enforcement agency in a difficult quandary. It is easier in the short run to be passive and reactive regarding criminal misconduct. On the other hand, the consequence

of not unearthing corruption leads to scandal, huge costs, and harsh criticism of a law enforcement agency that failed to police its own employees.

In Big Spender, the adverse consequences to the LASD lingered for many years. Convicted defendants in major drug cases had charges dismissed, including charges against a man holding over 800 pounds of cocaine for the Medellin cartel. The Big Spender probe cost the LASD alone more than \$8 million. The credibility of the Department dropped in light of admissions by “some deputies that they lied on search warrants, planted cocaine and perjured themselves to strengthen the evidence against drug suspects.”

Los Angeles Times, December 3, 1993, p. 1 et seq.

The Mollen Commission laid much of the blame for a huge drug and corruption scandal (the 30th Precinct scandal) on the weakness of the NYPD’s internal criminal unit:

The Commission’s evidence indisputably establishes that an anti-corruption system that relies primarily on the receipt of corruption complaints – i.e., a ‘reactive’ system – will grossly underestimate the extent and nature of police corruption today. The reason is simple: most victims of and witnesses to corruption and brutality do not report it to the Department. Despite this, the Department’s investigative and intelligence-gathering efforts were almost entirely reactive.... [I]nternal investigators routinely failed to use basic proactive investigative techniques that are routinely relied on in all other criminal investigations conducted by the Department. Mollen Commission Report, p.101.

In light of these failures, the Mollen Commission recommended that the NYPD adopt a proactive investigative approach and use the “full panoply of investigative techniques used in every other investigative division within the Department,” including self-initiated, targeted investigations as well as regular and more frequent random and targeted stings. *Id.* at 140. Further, the Commission recommended that internal criminal

investigations “should expand beyond isolated allegations against an individual officer to focus on groups of potentially miscreant officers and patterns of corrupt activity.” *Id.*

Our investigation of ICIB found that it was passive and reactive in ways similar to the NYPD prior to the breaking of the 30th Precinct scandal. ICIB has disturbingly few open investigations. It is not using on its own employees all the investigative techniques that it commonly uses to detect criminal behavior on the street. It is not probing and testing in areas where criminal misconduct most often occurs. It does not take initiative – investigations are triggered only by an internal or external complaint.

One LASD executive acknowledged these observations as true, yet excused the Department’s approach to criminal investigations: “We don’t have a culture of conspiratorial bad players. Our guys screw up one at a time, and not too badly. We haven’t gone through the shame and embarrassment that the LAPD has in recent years.” While this executive could not deny that a Rampart or another Big Spender scandal could be brewing in the LASD, he defended the Department for having accountability systems not present in the LAPD or the LASD of the 1980s, namely, the PPI and a vigorous administrative investigations process, including the involvement of the Office of Independent Review in administrative investigations. No doubt the LASD has avoided major scandal of late. Our concern is that if such a disaster was brewing, ICIB may not know about it. At minimum, the LASD should be actively investigating and rooting out criminal misconduct through targeted stings and other investigative techniques at its disposal.

The case for targeted integrity checks is strong. The case for random stings is somewhat less clear. Both the LAPD and the NYPD find that 95 to 99 percent of its officers pass random integrity tests in areas other than complaint-taking procedures. While it is disconcerting to think that LASD personnel might fail a random integrity test, and while we conclude

that best practice and prudent risk management would include random stings, we respect a decision by the Sheriff to conclude otherwise, on a cost/benefit basis or for other reasons. Accordingly, we stop short of urging random testing with one specific exception: The LASD should conduct frequent random stings to determine if LASD personnel charged with receiving complaints are taking and reporting them in a proper and respectful manner. As noted earlier, 12 percent of LAPD officers fail random stings in this area. This is substantially more than the one to five percent of officers who fail other types of random stings. The public's interest in having recourse for persons who believe themselves mistreated or abused by the police is greater than any LASD rationale for refusing integrity testing in this arena. Better that the LASD tests itself and finds and corrects its internal problems before outside groups catch it red-handed. In short, we strongly support increased use of targeted testing and believe the LASD should conduct random stings to test whether its personnel are in any way refusing or dissuading or trying to argue a complainant out of filing a complaint.

Conclusion

Like law enforcement agencies everywhere, the LASD is vulnerable to a major scandal. Unlike some others, it is not taking proactive steps to discover criminal misconduct. ICIB operates below the Department's radar screen with little official focus on its caseload. By contrast, in the NYPD and LAPD, both recently hit by major scandals, the criminal investigatory function is a key, well staffed, energized, inventive hub of activity. We worry that the LASD has grown complacent in the 15 years since Big Spender. It may very well be, as the Department believes, that LASD personnel are more honest and less prone to brutality, corruption, and common criminality than other law enforcement officers. But that is

a matter of faith and not objectively demonstrable. The Department has made a logical and pragmatic choice, given the infrequency that the DA accepts a case for filing, to emphasize administrative solutions in lieu of seemingly futile criminal investigations. We understand and respect that judgment call as a general matter. Nonetheless, we believe the balance has shifted too far, leaving the Department vulnerable to a major scandal. Accordingly, the LASD must become more proactive in finding out whether crime is being committed by its employees.

This chapter is replete with recommendations to achieve that result and to enable the LASD to reduce the risk that misconduct in its ranks goes undiscovered. To conclude, we summarize our recommendations below:

- The LASD should make consistent and frequent use of targeted integrity tests or stings. To the extent this overburdens ICIB's current resources, we recommend that the Department allocate appropriate additional resources.
- The LASD should conduct frequent random stings to determine if personnel charged with receiving complaints are taking and reporting them in a proper and respectful manner.
- ICIB should track all instances in which it is approached by a unit commander or other official regarding an allegation of possible misconduct but does not ultimately open an investigation and should provide a written explanation for its decision.
- ICIB should affirmatively follow up with unit commanders in each instance where it suggests further unit level investigation in lieu of opening a criminal investigation.

- All allegations of possible criminal misconduct should be automatically routed by ICIB to IAB regardless of whether ICIB opens an investigation. IAB, in turn, should have authority to commence an administrative investigation without waiting for a request from the suspect employee's unit commander. If appropriate, ICIB and IAB should proceed with parallel investigations. To deal with the extra burden this may place on IAB, we recommend that it be given appropriate additional resources as necessary.

Introduction

In the 1990s, law enforcement agencies began experimenting with mediation to resolve relatively minor citizen's complaints of discourtesy or rudeness. This was part of a broader trend of using conflict resolution – encompassing arbitration, mediation, private judging, and conciliation – as an alternative to litigation or formal investigation in court, jail, and police settings. Beginning in the 1970s, correctional institutions started mediation programs to resolve disputes between guards and inmates. Community and restorative justice initiatives employed conflict resolution to resolve minor criminal cases between victims and offenders. The purpose of mediating citizen's complaints is not to establish fault, but rather to examine the circumstances surrounding an incident, encourage mutual understanding and acceptance, and, when necessary, give guidance and direction without risk of punishment.¹ In traditional mediation, a neutral third party facilitates dialogue between parties to reach a mutually satisfactory resolution of the dispute. Some may consider mediation a success when the disputing parties simply meet and discuss matters. So too is it a success when the parties walk away with a greater understanding of the other's perspective. Better still is when the disputing parties agree on a resolution of the dispute.

On paper, the LASD has a conflict resolution program. The **Kolts Report** recommended mediation for minor citizen's complaints, and the

¹ Robert C. Holland (1996). *Dealing With Complaints Against the Police: The Resolution Process Adopted by the Queensland Police Service*, Australia, *Police Studies* Vol. 19, No. 2, 15-62.

LASD adopted guidelines and a model for doing so.² Reports that mediation of citizen's complaints had fallen into virtual disuse prompted our investigation and this chapter. We examined the use of mediation to resolve citizen's complaints in the LASD over the past three years, reviewing internal reports and training materials. We interviewed LASD personnel who helped develop the mediation program and others who have used it in the past.

Throughout our investigation we found broad support for mediation in theory. A different story emerges, however, when one looks at the frequency with which it is used. Since 2002, it appears the LASD has used mediation to resolve only 44 of more than 7,000 total personnel complaints filed during that time.³ Even in those instances where it is used, true mediation rarely takes place. There is no neutral outsider to facilitate dialogue or resolution; rather, the "mediator" is usually the subject officer's supervisor and, to the complainant at least, the purpose of the session often seems to be to explain or justify the deputy's actions.

We hasten to add that the LASD is not alone in the infrequency with which it uses mediation. According to a 2002 police-complaint mediation guide funded by the U.S. Department of Justice Office of Community Oriented Policing Services, there are only 16 police-complaint mediation programs currently in existence in the United States. The LASD and many other law enforcement agencies are missing out on a good thing.

I. Benefits of Mediation

Although the topic has not been studied extensively, limited research suggests mediation may leave complainants and police more satisfied with

² Mediation is just one form of conflict resolution, however, the majority of cases where conflict resolution was used in the LASD were actually mediations and thus, we use the terms interchangeably throughout this Report.

³ It is impossible to determine how many times conflict resolution was employed unsuccessfully as the only record of conflict resolution cases appears in the PPI as completed reviews. A complaint that is unsuccessfully mediated would be formally investigated and the results recorded in the PPI.

the complaint process, contribute to a greater understanding of policing, and more fully meet complainants' goals of a fair and responsive process.⁴ Mediation can also provide a more effective, efficient, and ultimately lower-cost alternative to formal investigations while remaining consistent with the goals of community policing.

In contrast with traditional complaint procedures, mediation focuses on understanding, problem solving, and reconciliation. Mediation gives complainants a sense of ownership over the process by providing an opportunity to actively participate. Hence, citizen satisfaction is typically higher than with formal Department investigations, which most often are unresolved or result in a finding that the deputy's conduct was reasonable. *See* Section II.E. and Table 3.1, below.

Mediation also offers an opportunity for dialogue between police and community residents in a non-adversarial environment, thereby encouraging individuals to freely express themselves and gain an understanding of the other person's perspective. For the community, a better understanding of the officer's perspective and the circumstances surrounding an incident may ultimately lead to a greater appreciation of policing practices. For police, a better understanding of the community's viewpoint can make for safer and more positive interactions with residents. For example, Portland's police oversight agency reported in 2004 that over 80 percent of participants in mediation were satisfied with the resolution of their dispute in contrast to approximately half of the complainants whose case was formally investigated and who reported *dissatisfaction* with the handling of their complaint.

These beneficial outcomes are consistent with community policing strategies, which ultimately seek to improve policing by improving police-

⁴ Samuel Walker, Carol Archbold and Leigh Herbst, *Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders* Web Version (Washington, DC: Government Printing Office, 2002).

community relations. The importance of community support for the police cannot be overstated, particularly in a large region like Los Angeles County, where some communities remain distrustful of law enforcement, a fact the LAPD has recently been reminded of with the immediate community uproar following the shooting death of Jose Peña and his nineteen month-old daughter. By strengthening police-community relations, a department's commitment to mediating complaints has the potential to increase cooperation between the police and the community, augmenting existing community policing efforts and helping curtail both police misconduct and street crime.

Of course, mediation is not always successful. According to researchers, when it fails, it is usually for one of four reasons: opposition from police officers and their unions, lack of understanding of mediation, insufficient resources and commitment from the department, and lack of incentives for officer and citizen participation.⁵ Mediation is successful only when officers understand and are receptive to its goals. The commitment to conflict resolution must start with the department's top executive. By all accounts, Sheriff Baca believes in the goals and benefits of conflict resolution. The LASD's failure to fully support its mediation program through training and accountability, however, undermines those stated goals.

II. Mediation in the LASD

Over the past three years, use of mediation has been documented in only 44 cases. That amounts to approximately 0.6 percent of all personnel complaints received by the Department during that time.⁶

⁵ Samuel Walker and Carol Archbold, *Mediating Citizen Complaints Against the Police: An Exploratory Study*, *Journal of Dispute Resolution*, Vol. 2000, No. 2, 231-244 (2000).

⁶ Conflict resolution has also been used by the Internal Ombudsman/Career Resources Center to resolve internal disputes related to harassment, discrimination, or fair and equitable treatment between employees. Under the authority of the Department of Fair Employment and Housing and/or Equal Employment Opportunity Commission, conflict resolution in these instances was directed by a trained, state approved facilitator and attended by the Ombudsman. Internal complaints that are resolved through conflict resolution are not entered into the subject's, victim's, or informant's PPI record.

A. Background

Each time a citizen complains about or commends a member of the Department, the member's watch commander completes a Watch Commander's Service Comment Report (SCR). The SCR documents two types of complaints: service complaints (e.g., complaints about Department policies, response time, or traffic citations) and personnel complaints (e.g., allegations of excessive force, discourtesy, unlawful detention, illegal searches, and false arrests).

A personnel complaint will result either in an informal review and resolution at the station level, a formal station-level or Internal Affairs investigation, or a referral for criminal investigation. The complaints and how they were resolved are recorded in the Personnel Performance Index (PPI), the LASD's computerized database that stores salient information about each deputy's performance, among other things. If a citizen's complaint is resolved through mediation, that fact also is noted in the PPI.

B. Guidelines

The LASD Manual of Policy and Procedures provides general guidance for supervisors on when to use conflict resolution: "Conflict resolution techniques may be appropriate in certain situations wherein the complainant and employee dispute the facts of the complaint and no other objective independent means for resolving the dispute exists." LASD Manual of Policy and Procedures 3-04/010.25. Unit commanders are to make the initial determination if a case is eligible for mediation and then appoint watch commanders to conduct the mediation. In addition, the LASD has written guidelines upon which its mediation program is supposed to be based. In reality, however, few supervisors are even aware the guidelines exist and those who do conduct mediations do so with little or no formal guidance. The LASD's Conflict Resolution Guidelines are attached as Appendix A.

The guidelines tell supervisors in a general way what factors to consider in evaluating whether a complaint is appropriate for conflict resolution, how to explain the process to both the deputy and the complainant, and how to recognize when the process is not working. Beyond the Department's failure to disseminate and train on the guidelines, there are several key deficiencies in the guidelines.

First, the guidelines do not contain clear rules governing which complaints are eligible for conflict resolution. According to the guidelines, supervisors must first interview the complainant and deputy individually to determine whether the complaint is best resolved through a formal investigation or if it lends itself to mediation. Occasionally, a complainant will ask to meet with a deputy to discuss an incident, but generally the Department determines eligibility and initiates mediation. The allegations typically considered appropriate for mediation are less serious ones – discourtesy or rudeness or accusations of substandard job performance. In deciding whether to mediate, supervisors are supposed to evaluate a deputy's misconduct history through an examination of his or her PPI record and a conversation with the deputy's immediate supervisor. Repeated past misconduct dictates that there be a formal investigation in lieu of mediation so that discipline can be imposed, if appropriate. While all of these factors should be considered, what is missing is any clear statement of which complaints will not be subject to resolution through mediation. Instead, for example, the guidelines state that criminal conduct and termination issues, among others, "do not lend themselves to conflict resolution." A better practice is to have clear criteria for eligibility, such as those found in the San Diego Police Department's Mediation Protocols, attached as Appendix B.

Another deficiency with the LASD guidelines is that they do not provide for a neutral facilitator. As we discuss below, we recommend the

Department use third-party, neutral mediators in its conflict resolution program. At a minimum, though, it needs to do more to assure that watch commanders acting as facilitators are neutral parties. The current guidelines call on supervisors to step out of the role of neutral party during the mediation and act as the Department's spokesperson:

Closing statement(s) by facilitator should stress that law enforcement has a positive duty to enforce the laws of the community. Also, that it is the department's desire to develop a better understanding and relationship within the community it serves while maintaining law and order.

The facilitator must stress that deputy sheriffs have the authority and responsibility to do their job and this must be respected. Citizens must understand that they will not always agree with deputies in the field and that the proper forum to resolve conflict is at the station – not interfering with the deputy in the field.
Conflict Resolution Guidelines, VII. Closure.

While these statements may be true, they are not representative of a neutral position. A good example of a policy of impartiality enacted to guide the conduct of outside mediators is found in the Portland Independent Police Review Division's Mediation Guidelines, attached as Appendix C:

The mediator shall demonstrate and maintain a commitment to impartial regard by serving all participants at all times. A mediator shall withdraw from the mediation process if there are conflicts of interest or prior or present relationships with participants that may appear to compromise their impartiality, or continue only with the informed consent of all parties.

IPR Mediation Program Guidelines, Section 4 (Ethical Requirements).

A third major problem with the current LASD guidelines is they expressly provide that a deputy participating in conflict resolution is not

required to speak. Appendix A, Conflict Resolution Guidelines, V.A. and VI.A. If the deputy is not willing to speak during the mediation to explain his position to the complainant, the mediation cannot succeed. Deputies cannot be required to participate in mediation, but those who agree to work through a complaint via conflict resolution must be willing to actively participate in the process.

Deficiencies with the current guidelines are rendered nearly moot, however, by the fact they have not been distributed throughout the Department. In practice, we found that supervisors are unaware of the written guidelines, make up their own criteria, and do not always consider any particular combination of factors in deciding when to use mediation. The result is that LASD supervisors use mediation inconsistently without coherent guidance or adequate formal training.

C. Training

Training in mediation of citizen's complaints is not mandatory for any member of the Department. During the early stages of the program, from 1993 to 1996, an eight-hour training regimen that addressed conflict theory, ethics and values, interpersonal communication skills, negotiation skills, and role playing was offered to commanders, captains, and lieutenants in Field Operations Units.

Beginning in 1997 and lasting through 1999, former Sheriff Block implemented a Department-wide initiative to address and reduce the number of discourtesy complaints. During that time, and as a part of the larger initiative, a short course in mediation was offered to captains from each patrol station. Captains were then expected to train and mentor lieutenants who in turn were to train sergeants who then were supposed to work with deputies. The curriculum was highly structured and represented the most consistent and widespread training in mediation since the initial effort in 1993.

Since 1999, training has been offered on a part-time, ad-hoc basis and only upon request. Trainings are currently conducted by Lieutenants Randall Olson or Brian Smith, both of whom were involved in developing the initial curriculum in 1993. These trainings consist of an abbreviated version of the full curriculum and last approximately an hour to an hour and a half.

The lack of standard and consistent training in mediation further undermines the Department's stated commitment to conflict resolution. Because the supervisors upon whom the LASD depends to conduct mediations are not necessarily trained in the selection of appropriate cases or in techniques for negotiating and resolving conflict, there is a great potential for confusion and dissatisfaction with the process, on the part of both deputies and members of the public.

D. Mediation Process

According to the Conflict Resolution Guidelines, the Department's mediation process begins with captains, who, upon receiving a complaint that appears to qualify for mediation under the Department's guidelines, will direct watch commanders to initiate it. Mediation only goes forward if both the complainant and deputy voluntarily agree to participate. The principal incentive for a deputy to participate is that a formal adjudication of the complaint will likely not take place. If mediation is successful, the PPI will simply and cryptically state "review completed – conflict resolution." The Department's guidelines set forth specifically what the facilitator should tell both deputies and complainants about the ground rules for conflict resolution. If, after being informed of these rules, both parties agree to participate, a meeting is scheduled, usually at the deputy's station and while the deputy is on duty. If a juvenile was involved in the incident that led to the complaint, parents are invited to the meeting. According to the guidelines, the complainant is to be given the first opportunity to present his or her perspective, followed by the deputy.

In practice, however, mediations are much more free-flowing than the process set forth in the guidelines. Typically, watch commanders simply bring the parties together and get them talking. Several watch commanders noted that once both parties were allowed to speak, they would explain the Department policy relating to the complaint (if not explained by the deputy) and begin to work toward a resolution. When a complaint is successfully mediated, watch commanders document the actions taken and the techniques used in a memorandum to the station captain. Watch commanders only report the result, not the content of the discussion or details of any agreement reached.

There are a number of problems with the process, in practice and as described in the guidelines. First, as we noted above, supervisors are generally not aware of how and when to use mediation. Second, because watch commanders themselves conduct mediation, there are disincentives for open and honest communication by the involved deputies. Often, the watch commander directly or indirectly supervises the deputy and the deputy may feel constrained from freely expressing himself or herself.⁷

Third, from the complainant's perspective, an LASD watch commander may not seem like a neutral and independent facilitator – and indeed, often he or she is not. Watch commanders frequently step out of the role of facilitator and become explainers or defenders of the Department in the hopes that the complainant will drop the matter once Department policy is explained. Several complainants we interviewed indicated to us the odds seemed stacked in favor of the deputy during the mediation process and that the meeting did not feel like a neutral environment. One of the goals of conflict resolution is to even the playing field in order to allow the disputants to see each other as equals. When LASD supervisors play the

⁷ Indeed, it may be for this reason the guidelines state that deputies are not required to speak at all, even though mediation is only effective when both parties communicate openly and honestly.

role of facilitator, the complainant likely will perceive the process to be biased in favor of the deputy .

Accordingly, we recommend using outside neutral third-party facilitators to conduct mediations. Deputies would be able to express themselves more freely than they might in front of an LASD supervisor. Complainants would feel that they too could speak with less inhibition in a dialogue led by a civilian rather than an LASD officer, and no doubt would view the process as more balanced.

We encountered resistance from the Department to the idea of using outside facilitators on two principal grounds. First, there is a concern that the Department does not have the resources to run a more formal conflict resolution program with outside mediators. We have not conducted a cost analysis, but discovered in our research other law enforcement agencies using innovative ways to fund mediation programs. The Pasadena Police Department, for example, is just beginning to operate a mediation program in conjunction with the Western Justice Center Foundation using volunteer mediators selected by the Los Angeles County Bar Association's Dispute Resolution Services. And mediators for the San Diego Police Department's mediation program are selected and financed by the National Conflict Resolution Center in San Diego. *See* Section III, below. Other programs that use neutral outsiders as facilitators, such as New York and Minneapolis, reduce program costs by using mediators working on a pro bono basis. In short, the use of outside facilitators is not necessarily cost prohibitive.

The second concern is based on a belief that an outside party not familiar with Department policies and procedures cannot effectively conduct a mediation. While this is a superficially valid concern, the truth is that competent neutral mediators and arbitrators are used effectively all the time on complex legal matters without having any prior deep

understanding of the subject matter. Likewise, lawyers and judges are regularly called on to learn about new enterprises and become familiar with disparate positions each time they get a new case. Indeed, a lack of specific familiarity with LASD policies and culture will make it more likely the mediator will appreciate all viewpoints and arguments presented and will guide the discussion in a neutral and unbiased manner. In particular, a neutral mediator is less likely than a watch commander to step out of role in order to rationalize or explain Department policy or the deputy's conduct to the complainant. Neutral outsiders most likely will see their mission as solely to facilitate the parties themselves in coming to a mutually satisfactory out-come. Although watch commanders may have a similar mission, they also may understand that their success will be measured by their superiors according to how quickly they make the complaint and the complainant go away.

E. LASD Use of Conflict Resolution

Between January 2002 and April 2005, members of the public filed 7,406 personnel⁸ and 3,007 service complaints⁹ with the LASD. Under the Department's current guidelines, only personnel complaints are eligible for mediation.¹⁰ According to PPI records, of the 7,406 personnel complaints filed during that time period, just 44, or 0.6 percent, were mediated. Of course, not all personnel complaints are suitable to be mediated. The LASD, though, lacks clear eligibility guidelines and does not track which of the incoming complaints might be suitable for conflict resolution, so it is not

8 LASD personnel complaint categories include the following: criminal conduct, discourtesy, dishonesty, unreasonable force, improper tactics, improper detention, search, or arrest, neglect of duty, operation of vehicles, off duty conduct, harassment, discrimination, and other.

9 Service complaints generally are directed at the Department, not an individual deputy, and deal with concerns about LASD policy or the level or timeliness of the Department's response to a request for service.

10 Certain types of service complaints could be effectively mediated. We recommend the Department consider making service complaints eligible for mediation as part of a broader overhaul of its conflict resolution program.

possible to say precisely how many of the more than 7,000 personnel complaints could have been mediated.

One possible explanation for the paucity of mediation in the LASD is that, for the Department, it is less costly and time consuming to do a cursory investigation and swiftly decide the outcome of a complaint than to mediate it. It has been a number of years since we last looked at the quality of investigations of citizen's complaints. We intend to do so in a future report, examining whether complaints are being properly classified, summarily denied, and appropriately referred to Internal Affairs—in short, whether patrol stations are living up to the responsibility of investigating their own deputies with which the Department has entrusted them.

Another explanation for the small number of mediations is that deputies have little incentive to participate. Deputies were subject to disciplinary action in only 8.1 percent of all the personnel complaints that were resolved in the Service Comment Review process from 2002 through 2005. *See* Table 3.1 (“Conduct Should Have Been Different” is the only disposition where deputies are eligible for any type of discipline). With the odds favoring absolution by the Department, it is not surprising that deputies would be reluctant to participate in a process that requires them to meet face-to-face with people who have complained about their performance just to achieve the same result.

The possible dispositions for personnel complaints listed on the SCR form are: Employee Conduct was Reasonable; Appears Employee Conduct Could Have Been Better; Employee Conduct Should Have Been Different; Unable to Make a Determination; Conflict Resolution; and Watch Commander's Discretion: Service Review Terminated. *See* LASD Result of Service Comment Review, attached as Appendix E. The breakdown of personnel complaint resolutions from 2002 through the beginning of 2005 is contained in Table 3.1. Two dispositions – “Appears Employee

Table 3.1 **LASD Personnel Service Comment Report Dispositions**

Disposition	2002	2003	2004	2005*	Total
Conduct was Reasonable	899	970	912	183	2964
Conduct Could Have Been Better	199	194	200	34	627
Conduct Should Have Been Different	203	179	177	41	600
Conflict Resolution	13	19	9	3	44
Unable to Determine	503	472	475	63	1513
Exonerated	101	77	64	14	256
Watch Commander Discretion: Service Review Terminated	50	46	50	8	154
Annual Total Personnel Complaints**	2277	2255	2238	636	7406

* 01/01/05 through 04/30/05

** Totals include complaints that did not fall into any of these categories or have not been adjudicated.

Source: LASD Discovery Unit

Conduct Could Have Been Better” and “Unable to Make a Determination” – are being used to resolve complaints that seem particularly amenable to the mediation process.

According to the Department, the disposition “Appears Employee Conduct Could Have Been Better” should be used when “[t]he employee’s actions were in compliance with established procedures, policies, guidelines. Complaint could have been minimized if the employee had employed tactical communication principles or some common sense.”¹¹ This is precisely the type of case that should be mediated. The deputy who did not violate any policy but could have communicated better may learn, in a face-to-face meeting with the complainant, how to avoid offending or inciting members of the public, a skill that would serve the deputy and the Department well in future encounters. The complainant may come to better understand the deputy’s perspective and would be more satisfied that the Department took his or her complaint seriously.

¹¹ LASD Result of Service Comment Review, attached as Appendix E.

A second category of disposition, “Unable to Make a Determination,” also is the kind of case that lends itself to conflict resolution. This result is to be used for cases in which “[t]he inquiry reveals insufficient evidence to corroborate the version of the facts presented by either person.”¹² These cases, where it is one party’s word against the other’s, are listed as among those most suitable for conflict resolution in the Department’s current guidelines and policy manual.¹³ If the LASD were to refer for conflict resolution even some of the cases from these two categories, which together account for nearly 30 percent of all personnel complaint dispositions over the past several years, its use of conflict resolution would dramatically increase.

It is instructive to describe two LASD mediation cases that demonstrate how mediation currently is being used in the LASD, successfully and unsuccessfully.

Case Study No. 1

At approximately 10:30 p.m. Deputy A was on regular patrol and pulled over an African-American man driving an expensive car with tinted windows for a minor traffic violation. The driver of the vehicle, a physician in the community, became upset and accused Deputy A of pulling him over because he was black. The driver filed a formal complaint and wrote a letter to the Sheriff. Upon a review of the case, the unit commander, Captain B, felt that the deputy had not violated Department policies, yet because the complainant was upset and had brought the complaint to the

¹² LASD Result of Service Comment Review. The further definition of this category includes: “Unable to contact the complainant, and no indication of misconduct is present from other sources; or we are unable to identify the personnel involved.” Of course, if the Department is not able to identify or contact the involved parties, mediation would be impossible.

¹³ The LASD Conflict Resolution Guidelines tell watch commanders conflict resolution is appropriate for cases in which there is “[n]o likelihood of resolving issue if handled through the formal process.” And LASD Manual of Policy and Procedures 3-04/010.25 provides that conflict resolution is most appropriate where “the complainant and employee dispute the facts of the complaint and no other objective independent means for resolving the dispute exists.”

attention of the Sheriff, Captain B invited the complainant to come into the station to discuss the case with the watch commander and the deputy. Captain B also invited Deputy A to the discussion. According to the Department's account of the mediation, the complainant was surprised to discover that Deputy A was not white, as he previously thought, but was in fact from a mixed racial and ethnic background. Deputy A explained to the complainant that he was very upset by the accusations of racism because he believed that he was just doing his job. Given the circumstances of the case, the deputy felt he was justified in pulling the complainant over for the minor traffic violation he observed. The complainant explained that he had just completed a long shift, saw the uniform and the badge, and jumped to conclusions. According to the Department, both parties apologized after getting a chance to hear the other's perspective and shook hands. Deputy A, the complainant, and the watch commander all told Captain B that they had learned something from the discussion. We were unable to contact the complainant to verify this account.

Case Study No. 2

In March 2004, the complainant was driving west-bound while Deputy C was driving east-bound on the same road. Deputy C claimed that when the two cars passed, the complainant made eye contact and "flipped him off." At that point, Deputy C turned around and followed the complainant into a restaurant parking lot. Deputy C claimed that he followed the complainant into the parking lot because he noticed the complainant's vehicle tags were expired. We find this explanation to be implausible, as license plate tags are located on the rear of the vehicle and it would have been difficult for Deputy C to have noticed an expired tag while driving in the opposite direction of the complainant's vehicle. The complainant

claims that the deputy informed him his registration was expired only after he pulled into the parking lot and had provided the deputy with his license, registration, and proof of insurance. While Deputy C was approaching his vehicle, the complainant got out but was instructed by the deputy to get back in the car. The complainant claims that Deputy C walked up to his car and immediately asked, "Why did you flip me off?" The complainant responded, "I didn't flip you off. F--- you. I wish I did flip you off." After this exchange, the complainant said that Deputy C issued him a citation. As Deputy C returned to the complainant's vehicle and was tearing the citation out of the ticket book, the complainant reportedly exited his vehicle again. Deputy C placed his finger on the complainant's chest and directed the complainant to remain there until the deputy left the area.

Deputy C and the complainant engaged in mediation in 2004. Both sides offered their perspectives of the incident. The conversation lasted approximately an hour. The Department reported the parties reached a mutually agreed upon solution and that the complainant was satisfied and requested the complaint be dropped. No further action was taken and Deputy C's conduct was deemed reasonable.

We heard a much different story, however, when we interviewed this complainant. He expressed disappointment with the deputy's unwillingness to have an open and honest conversation about the incident and said the deputy seemed only interested in defending his actions rather than hearing an alternate view. Even worse, he felt that the deputy's supervisor stuck by the deputy, stubbornly defending the deputy's position. The complainant became so frustrated during the mediation that after an hour had passed he grew impatient and gave up arguing with the deputy and his watch commander. He remains angry with how the Department handled his complaint and felt that the mediation was a complete waste of time.

F. Complainants' Perspectives

We attempted to contact the nine individual complainants who participated in the Department's conflict resolution program in 2004. Three of these cases were not suitable for follow-up because they were either closed after a brief conversation with the complainant or a preliminary investigation, but no face-to-face meeting ever occurred.¹⁴ Three complainants either could not be reached with the information provided on the complaint form or were unwilling to speak with us, so we were able to interview just three individuals. What we found in even these few conversations, however, is telling and raises concerns about the LASD's conflict resolution process.

The problems complainants experienced during mediation echoed several of our concerns about the Department's existing conflict resolution program. These complainants felt they were outnumbered because of the presence of the watch commander as the supposedly neutral mediator. One complainant felt extremely intimidated by the deputy whom she hadn't seen since the incident giving rise to the complaint. The watch commander/mediator in that case clearly was not equipped to address this perceived power imbalance, though professional mediators are trained to recognize and ameliorate this and other issues that may come up during mediation. Another individual, the complainant from Case Study No. 2, felt that the deputy and deputy's supervisor stuck together and dug in their heels defending the deputy's actions. This type of behavior by a facilitator during mediation is deplorable. Mediators are supposed to facilitate discussion, not advocate for one side or the other.

A second issue that was raised by all three of the complainants we spoke with was the fact that deputies were not coming to these meetings willing to speak openly and honestly about what happened or to listen to

¹⁴ We question whether these cases even should be counted among the complaints resolved via conflict resolution.

the complainant's perspective. One complainant, whose grievance was mediated in the field, noted that the deputies had a bad attitude and were upset that they had to come back to the scene and talk with the complainant. As we noted above, the complainant from Case Study No. 2 felt like the deputy did not want to listen to his side of the story. In order for conflict resolution to be effective, both parties have to participate in good faith and be open to honest discussion.

The third area of concern revealed in our conversations with complainants was the way in which the Department is explaining conflict resolution, both to complainants and to deputies. One of the key goals of conflict resolution is to increase understanding of the other's perspective, the incident, and perhaps the Department and policing as a profession. Two of the complainants indicated to us that they walked away without a greater understanding of the Department's policies or procedures or policing in general. They also expressed dissatisfaction that the conflict resolution process was not fully explained to them at the outset. For example, one complainant believed that the deputy would be disciplined and was disappointed to learn that nothing happened following the mediation. Successful mediation requires that each party has a clear understanding of the goals and possible outcomes of the process.

For a conflict resolution program to succeed in the LASD, encouragement must come from the top. Deputies will not buy into the process unless their supervisors show their enthusiastic support for the program. By the same token, captains, lieutenants, and sergeants will not embrace conflict resolution unless LASD executives set the example and hold them accountable. Mediation presents a rare opportunity for law enforcement to reach out directly to members of the community who feel that they have been wronged by the police. The LASD should seize these opportunities to promote a greater understanding of the Department.

III. Conflict Resolution & Other Law Enforcement Agencies

Two police departments with well-developed mediation programs – San Diego and Portland – offer useful examples of ways in which the LASD’s program could be improved. They represent the two main types of mediation models used in U.S. law enforcement agencies: internal and external. Internal mediation programs are run by law enforcement agencies themselves within an internal affairs or professional standards unit. External mediation programs are operated by independent police oversight agencies. The San Diego Police Department’s Mediation Program is an internal program whereas the Portland Police Bureau’s Mediation Program is external. We discuss Portland’s program because it is one of the largest and most active law enforcement mediation programs in the country and is recognized nationally as a model program. We describe San Diego’s program because it was particularly well-planned and implemented and has served as a model for other departments, including the Tucson Police Department and the Pasadena Police Department. Of course, San Diego is particularly relevant because it is geographically close to Los Angeles County and serves a similar population. Both San Diego and Portland use outside, neutral mediators.

A. San Diego Police Department

The San Diego Police Department’s (SDPD) Mediation Program is run by the Internal Affairs Unit. The National Conflict Resolution Center (formerly the San Diego Mediation Center) provides support and mediators for the program. Creating a program in San Diego took nearly two years and was researched and planned by a committee under the leadership of an Internal Affairs lieutenant. Committee members included SDPD command officers, rank and file officers, the head of the SDPD Equal Employment Office, the director of a local mediation center, the director of the SDPD

citizen oversight agency, a representative of the police officers' collective bargaining organization, a representative of the collective bargaining organization for non-sworn employees, and community representatives. Part of the planning committee's research was supported by the Regional Community Policing Institute. During the planning phase, committee members reviewed policies and procedures of other mediation programs, traveled outside of San Diego to study programs more in-depth, and developed specific program objectives.

Under San Diego's system, not all complaints are eligible for mediation. There are two criteria: complaint eligibility and department member eligibility. Generally, all less-serious, or "Category II" complaints, are eligible. These include complaints about police procedure, service, courtesy, and professional conduct, as well as some selected complaints of discrimination. The complaint is initially assigned to a supervisor in the involved officer's chain of command who interviews the complainant, the officer, and witnesses and reviews SDPD records. The supervisor then submits findings to his or her supervisor and to Internal Affairs. An IA lieutenant makes the final determination if the complaint should be mediated. The lieutenant takes into account whether the involved officer has a pattern of misconduct or similar complaints previously sustained. If so, the Department member may not be eligible to mediate and the lieutenant may choose to initiate a formal investigation.

Once the eligibility criteria are met, IA seeks the consent of the involved officer. If the officer agrees to participate, IA notifies the National Conflict Resolution Center which in turn contacts the complainant and offers mediation. Participation in mediation is voluntary. Allowing an outside, independent agency to contact the complainant to offer mediation adds legitimacy to the process and increases the likelihood that complainants will not feel intimidated or pressured into participating.

Mediators are selected by the National Conflict Resolution Center. The actual mediation sessions are confidential, cannot be recorded, and the outcomes cannot be appealed. All parties involved must sign a *Consent to Mediate Form*. The SDPD has three possible outcomes for a mediation session: agreement, non-agreement, or partial agreement. After mediation has concluded, the mediator reports the outcome to IA. If cases are mediated successfully, complainants agree to officially withdraw complaints. If mediation is unsuccessful or either party requests a formal investigation, the case is returned to IA for further investigation. If a formal investigation is conducted, no statements, settlement discussions, or negotiations made during mediation may be used. The SDPD mediation protocols are attached as Appendix B.

During the first year of the program, from mid-2002 to mid-2003, 14 cases out of 124 eligible complaints were mediated, 13 successfully. The program lost funding for a year and did not begin again until July 2004. Since then, five cases have been mediated, four successfully. Three cases currently are pending.¹⁵ Cases referred for mediation represent a small proportion of complaints received by SDPD that in theory could be mediated. This is due mainly to insufficient resources. The loss of funding after the program's first year created staffing problems that in turn led to a backlog of cases waiting to be mediated.

The mediation program in San Diego is funded by the National Conflict Resolution Center, which received a grant to operate the program. The end term of the grant is approaching, and thus the SDPD is working to find other sources of funding for the program.

¹⁵ In 2004, 97 eligible complaints were filed and, as of April 30, 2005, 28 such complaints have been filed. According to the 2000 Law Enforcement Management and Administrative Statistics, SDPD had 2,022 sworn officers. We have not studied whether the SDPD and the LASD have equivalent complaint-taking procedures and so cannot make meaningful comparisons, but for reference, the LASD's 8,100 sworn officers generate roughly 2,200 personnel complaints per year.

B. Portland Police Bureau

The mediation program in the Portland Police Bureau (PPB) is one of the largest and most active in the country. The mediation program has an annual budget of approximately \$10,000, allowing it to engage seven professional mediators. The mediation program is run by the Independent Police Review Division (IPR) of the City Auditor's Office and began in September 2002. An earlier pilot program had failed, principally because rank and file officers and their union mistrusted it. To address that issue, IPR and the Internal Affairs Division collaborated on significant outreach efforts within the PPB prior to commencement of the new mediation project, including preparing and distributing written materials about the mediation program, producing an instructional video about mediation for roll calls, and making presentations to the command staff and the police union.

The carrot for officers to participate is a promise that if they agree to mediation, they will not be subject to an IA investigation or disciplinary action. An additional incentive is that mediation sessions are not recorded in officers' personnel files (though records are kept by the IPR). Once the case is closed through mediation, it cannot be appealed.

The IPR receives all complaints regarding Portland officers and then assigns them to an intake investigator for a preliminary investigation.¹⁶ The investigator interviews the complainant, reviews PPB records, and classifies the complaint. Thereafter, the director of IPR has several options, including declining the complaint, referring it to Internal Affairs, or with the concurrence of the IA captain, offering mediation. Mediation can also be initiated when a complainant demonstrates a desire to mediate. Before mediation goes forward, however, IPR must obtain the consent of not only the subject officer but also his or her commanding officer.

¹⁶ IPR complaint categories include: force, control techniques, conduct, disparate treatment, courtesy, and procedure.

Like San Diego, only complaints of minor misconduct can be mediated. Complaints involving corruption or excessive force are not eligible; nor are most complaints alleging racial slurs or discrimination. During mediation, each party is given an opportunity to present his or her perspective of the incident. The mediator guides the discussion until an agreement or an impasse is reached. The IPR Mediation Program Guidelines and Protocols are included as Appendices C and D, respectively.

IPR set a goal to refer 10 percent of all complaints for mediation. During 2003, the first full year of the new mediation program, 47 cases were assigned for mediation – approximately 6.2 percent of the 761 total complaints filed that year. Twenty were mediated successfully. In 2004, the IPR achieved its ten percent goal and referred for mediation 78 of the 781 complaints received,¹⁷ of which 33 were mediated to agreement.

IPR keeps records of all aspects of the program, from the outcomes of mediation sessions to demographic characteristics of participants to levels of participant satisfaction with the process. In 2004, the IPR reported that 88 percent of complainants and 87 percent of officers who had engaged in mediation were either completely or partially satisfied with the resolution of their dispute. During that same period, 52 percent of respondents whose complaints went through the formal process were dissatisfied with how their complaint was handled. Additionally, IPR reported that 99 percent of complainants and 100 percent of officers thought that the mediators were fair to both sides, 96.7 percent of complainants and 85.7 percent of officers would recommend mediation to others, and 88 percent of complainants and 100 percent of officers felt that they had an opportunity to explain themselves during the mediation process. Portland's reported higher level of satisfaction with the mediation process than with the formal investigatory

¹⁷ The PPB has 1,043 officers, though again, we have not studied the PPB's complaint-taking procedures relative to the LASD's in a manner that would allow us to make direct comparisons.

process is an encouraging sign for other departments considering implementing similar programs.

Conclusion

The LASD has the opportunity to be at the forefront of a national trend in policing toward implementing alternative methods of addressing citizen's complaints and community concerns. In doing so, it could realize the benefits of a formal complaint mediation program, including better communication and greater levels of understanding between the LASD and the communities it polices. Although there appears to be widespread support for the idea of mediation throughout the LASD, actual use is low. There is no broad mandate that strongly encourages or requires captains to mediate citizens' complaints, and most supervisors appear to be unaware of the Department's mediation guidelines. Additionally, the absence of systematic training or supervisory accountability indicates a lack of a major Department commitment. We accordingly recommend the following:

- The Department should use outside third-parties to facilitate conflict resolution. This need not be cost prohibitive, as the Department should explore innovative ways to fund a mediation program with volunteer mediators and grant proposals.
- The Department should create additional incentives for deputies to participate in conflict resolution. For example, complainants may officially withdraw complaints resolved through mediation or the PPI could reflect that mediation resulted in a full agreement, partial agreement, or non-agreement. We do not recommend that complaints resolved through conflict resolution be excluded from the PPI. Most importantly, the Department should make it clear to deputies that a PPI entry indicating a complaint was resolved via conflict resolution is

equal to or better than a complaint deemed unfounded because it demonstrates a professional and admirable approach to strengthening the public's trust in the Department.

- The Department should engage in an outreach campaign to educate the public and LASD personnel about the conflict resolution process and the benefits of participating in conflict resolution. In order for a mediation program to succeed, captains and lieutenants must buy into the program and then educate the deputies they supervise and encourage their participation.
- In the interim or at a minimum, the Department should revise the conflict resolution guidelines to more clearly establish what types of complaints are eligible for mediation; encourage deputies to participate in good faith in mediation; emphasize timeliness in conducting mediations; address issues of confidentiality; and stress the requirement of impartiality by the facilitator. The San Diego and Portland policies and guidelines provide useful models. *See* Appendices B, C, and D.
- The Department should implement conflict resolution guidelines as policy and distribute them to all commanders, captains, and lieutenants in field operations units.
- Training in conflict resolution should be mandatory for all lieutenants and captains in the Department.

Appendix A: LASD Conflict Resolution Guidelines

GUIDELINES

INTRODUCTION – PURPOSE

The purpose of the Conflict Resolution program is to promote public satisfaction with an appreciation for the Department's responsiveness in handling personnel complaints.

Conflict Resolution techniques utilized by trained Department managers enable mediated conversations between the complainant and the employee. This process enhances each party's ability to appreciate the other's point of view, which can lead to resolving the conflict.

- I. EVALUATE COMPLAINT TO SEE IF IT IS APPROPRIATE TO RESOLVE THE ISSUE THROUGH CONFLICT RESOLUTION WHICH MAY INCLUDE:
 - A. Interview the complainant and the Deputy
 - B. Situations that lend themselves to conflict resolution
 1. No likelihood of resolving issue if handled through the formal process.
 2. No independent witnesses or same number of credible witnesses on each side of issue.
 3. Policy misunderstanding, e.g., complaints of excess force could be a conflict resolution opportunity if the unit commander has already reviewed the force and determined it to have been justified.
 4. Tactical misunderstanding.
 5. Language.
 6. Job performance.
 - a) Example: Complaints of unjustified vehicle stop.
 - C. Situations that do not lend themselves to conflict resolution
 1. Criminal conduct
 2. Termination issues
 3. Severe discipline issues
 4. Complaints against deputies by inmates

- II. REVIEW DEPUTY'S PAST HISTORY TO SEE IF CONFLICT RESOLUTION IS APPROPRIATE
 - A. Personnel Performance Index
 - B. Deputy performance log
 - C. Check with immediate supervisor for input

- III. ASSESS THE AVAILABLE INFORMATION (COMPLAINANT AND DEPUTY) AND MAKE A DECISION IF CONFLICT RESOLUTION IS APPROPRIATE
 - A. Conflict Resolution must serve the best interest of the Department, involved personnel and complainant.

- IV. GUIDELINES FOR FACILITATOR
 - A. Facilitator traits
 - 1. Fair and impartial.
 - 2. Commitment to process.
 - 3. Cultural awareness
 - B. Develop a clear understanding of the conflict
 - 1. Write down essence of allegation.
 - 2. Confirm with complainant that your understanding is accurate.
 - C. Explain ground rules to all participants (see subsequent sections)

- V. GUIDELINES FOR WHAT TO TELL DEPUTY IN EXPLAINING CONFLICT RESOLUTION
 - A. Not required to speak
 - B. Truth often distorted by emotion
 - C. Be open, truthful, non-confrontational
 - D. Opportunity to place self in position to explain actions in front of complainant.
 - E. After the initial inquiry, it is the intent of Conflict Resolution session to handle this complaint without further action or discipline. However, Conflict Resolution will not preclude a supervisor from documenting the incident in the Unit Performance Log or Book, if appropriate.
 - 1. Must make it clear to the Deputy that if any serious new

allegation of misconduct arises during the resolution session, an administrative investigation will have to be conducted.

2. Conflict Resolution will not eliminate the right of a citizen to request a formal investigation, i.e., if the complainant goes to the Ombudsmen, the Department may have to investigate the complaint.

F. Issue of having a representative there

1. O.k., if Deputy wants him (risky to say "No")
2. Ground rules
 - a) Can't comment on incident you weren't present for.
 - b) Be respectful, honest, non-confrontational.

VI. GUIDELINES FOR WHAT TO TELL COMPLAINANT IN EXPLAINING CONFLICT RESOLUTION

- A. Deputy not required to speak
- B. You are allowed to speak first without interruption
- C. Remember: truth is often distorted by emotion
- D. May not reach full agreement
- E. You will not direct anger at deputy.
You may at me or the system, but not the deputy.

VII. GUIDELINES FOR WHAT TO TELL ALL PARTICIPANTS AT BEGINNING OF SESSION

- A. Only one person speaks at a time
- B. Respect for each other
- C. Do no belittle one another

VIII. CLOSURE

Closing statement(s) by facilitator should stress that law enforcement has a positive duty to enforce the laws of the community. Also, that it is the department's desire to develop a better understanding and relationship within the community it serves while maintaining law and order.

The facilitator must stress that deputy sheriffs have the authority and responsibility to do their job and this must be respected. Citizens must understand that they will not always agree with deputies in the field and that the proper forum to resolve conflict is at the station – not interfering with the deputy in the field.

IX. RECOGNIZING WHEN ITS NOT WORKING

- A. New information is discovered that warrants a formal administrative investigation
- B. When either party does not abide by ground rules
- C. Damage control

X. GUIDELINES FOR DOCUMENTING CONFLICT RESOLUTION SESSIONS

- A. Short narrative on the SCR which was filled out explaining Conflict Resolution was utilized. Also, record whether the informal inquiry or Conflict Resolution session resulted in counseling of the employee.
- B. Document counseling in performance log, if appropriate.

Appendix B: San Diego Mediation Program Protocols

SAN DIEGO POLICE DEPARTMENT PROCEDURE

DATE: 01/26/04

NUMBER: 1.39 – ADMIN

SUBJECT: MEDIATION

RELATED POLICY: N/A

ORIGINATING DIVISION: PROFESSIONAL STANDARDS AND TRAINING

NEW PROCEDURE:

PROCEDURAL CHANGE:

SUPERSEDES: N/A

I. PURPOSE

This Department procedure establishes guidelines for the use of mediation to resolve disputes and concerns between citizens and Department members.

II. SCOPE

This procedure applies to all members of the Department.

III. DEFINITION

Mediation is a process designed to resolve disputes through negotiation and constructive communication with the assistance of a trained neutral party mediator. It is an informal, non-disciplinary and non-adversarial process, voluntarily agreed to by both the complainant(s) and member(s) of the San Diego Police Department.

IV. VISION

The Mediation Program was developed to create a structured, voluntary process that allows citizens and Department members the opportunity to discuss their concerns, share their views, explore possible solutions, and work to resolve their differences through amicable agreement.

A. Objectives

1. Increase the satisfaction of community members and Department members with regard to the resolution of citizen's complaints.
2. To foster understanding and open communication between parties in a neutral setting.
3. To promote effective police/community partnerships.
4. To develop problem-solving opportunities.

V. PROCEDURES

A. Eligibility

Complaints submitted to Internal Affairs shall be evaluated for possible mediation. Citizen complaints found to be eligible for mediation will be given a mediation case number (i.e., 00-000M). An Internal Affairs lieutenant, or his/her designee, will evaluate the complaint for mediation based upon case eligibility and Department member eligibility.

1. Case eligibility

All Category II complaints can be considered for mediation by the Internal Affairs Section, which includes the following types of allegations:

- a. Procedure;
- b. Service;
- c. Courtesy;
- d. Conduct; or,
- e. Other.

Category I complaints will generally not be considered for mediation at this time. Category I complaints include the following types of allegations:

- a. Force;
- b. Arrest;
- c. Discrimination
- d. Slurs; or,
- e. Criminal conduct.

2. Employee eligibility

All members of the San Diego Police Department are eligible for mediation. In determining eligibility, the Internal Affairs Section will take into consideration the Department member's history in the following areas:

- a. Prior mediations;
- b. Prior sustained complaints; and,
- c. Nature of the present allegation(s).

B. Mediation process

1. Internal Affairs staff will schedule the mediation at a time convenient to all parties based upon the following:

- a. Mediator's schedule;
- b. Complainant's schedule; and,
- c. Member's work schedule.

Every attempt will be made to schedule mediation during the member's normal working hours. However, if this is not possible or practical, the member will be afforded overtime compensation in accordance with established Memorandums of Understanding and Department procedures.

2. Department members shall attend a mediation in full uniform (including leather gear) or dressed in civilian attire that meets the same Department requirements for testifying in court (Refer to Department Procedure 5.10, Uniform, Equipment, and Weapons).
3. Once a Department member accepts a date and time for mediation, that member must appear on the scheduled date and time unless he/she received prior schedule change approval from an Internal Affairs lieutenant or his/her designee.
4. Department members who are ill or have an emergency on the mediation date, and cannot appear for the scheduled mediation, are responsible for immediately contacting the Internal Affairs Mediation Detective. The Mediation Detective can be reached during the hours of 0600 to 1630, at 531-2801. During the hours that the Mediation Detective cannot be reached, the Department member will contact the mediator at (619) 238-2400.

5. Upon concluding a mediation session, the mediator(s) will deliver a statement of outcome to the Internal Affairs Office categorizing the resolution as one of the following:
 - a. Agreement;
 - b. Non-agreement; or,
 - c. Partial agreement.
6. Mediations are confidential and tape-recording is prohibited.
7. There shall be no appeal of the mediation agreement.

C. Resolution

1. If the citizen complaint is successfully mediated, the complainant will agree to authorize Internal Affairs to “officially” withdraw the complaint. The case will then be logged and tracked by the assigned mediation “M” number. Both parties will receive a letter outlining their successful mediation and declaring the issue(s) fully resolved.
2. The mediation file shall contain the Complaint Control Form, the tracking form, the Consent to Mediate Form, and the tabbing sheet. Mediation files are confidential and governed by California Evidence Code Section 1115-1128. Mediation files shall not be reproduced, duplicated or made public in any way. The files will be maintained in the Internal Affairs Office for a period of two years, commencing from the date of mediation, before being removed and destroyed.
3. The confidentiality of mediations shall not preclude Internal Affairs from capturing general statistical information necessary to evaluate the effectiveness of the mediation process.
4. If a mediation is either unsuccessful or during the course of the mediation either party requests a formal investigation, the case will be returned to Internal Affairs for investigation. If an Internal Affairs investigation occurs after mediation is attempted, no party will be permitted to refer to any statements made during the mediation process.

Appendix C: Portland Mediation Program Guidelines

INDEPENDENT POLICE REVIEW DIVISION (IPR) - MEDIATION PROGRAM GUIDELINES

*Administrative Rules Adopted by Bureau Pursuant to Rule-Making
Authority*

ARB-PSF-5.10

Section 1 - Assignment of cases

The Independent Police Review Division shall select cases for potential mediation. Once cases have been selected, IPR will seek the approval of the complainant, the police officer, and the Portland Police Bureau. Should all of these parties approve mediation, the IPR Community Relations Coordinator shall select a mediator and contact them to determine if they are available to take the case. Mediators may also be requested to co-mediate with other mediators who have also been approved by IPR. If the mediator(s) is available, IPR will forward the case report to the mediator(s) for review.

IPR shall make reasonable efforts to distribute cases fairly between contracted mediators, but shall be guided by the overriding priorities of timely and effective handling of cases. Relevant factors include the ability and expertise of the mediators, and the needs and diversity of the clients.

The mediator is not obligated to accept a case, nor shall they be penalized for declining a case, but they shall notify the IPR Community Relations Coordinator or Director in a timely fashion (within 5 working days) if they believe, having reviewed the case, that it is not suitable for mediation, or that it would be better assigned to another mediator.

Section 2 - Timeliness

Because the ultimate success of mediation efforts may be partly dependent on the timeliness with which mediations are carried out, mediators shall make reasonable efforts to conduct mediations within 2 weeks of accepting a case. The target goal is to mediate within 30 days of selecting a case for mediation, and not to exceed 60 days.

Section 3 - After the case has been accepted

If the mediator accepts the case, the IPR Mediation Community Relations Coordinator will arrange for a time and place for the mediation. The mediator may meet with both parties, either together, separately or both, and review the incident in an informal and non-confrontational setting, either at the IPR office, or an alternative location mutually agreeable to the mediator(s), complainant and police officer.

The objectives of the mediation shall include resolution of the conflict in a fair and respectful manner, allowing the parties to better understand each other's perspective on the incident, affording an opportunity to improve relationships between the complainant (and the larger community) and the officer (and the Portland Police Bureau) and to reduce the risk of future conflicts.

Section 4 - Ethical requirements

Mediators are expected to adhere to standards of ethical practice that are embodied in the Oregon Mediation Association's "standards of mediation practice," excerpted below.

- Self Determination: Mediators shall respect and encourage the self-determination of participants in decisions regarding what process to use and regarding whether, and on what terms, to resolve their dispute.
- Informed Consent: The mediator shall provide mediation services only with the informed consent of participants to participate in the specific mediation process offered by the mediator. The mediator shall explain the mediation process, the roles of the participants, and confidentiality. The mediator must also inform the participants of the need to be realistic in protecting themselves against possible abuse of the mediation process.
- Impartial Regard: The mediator shall demonstrate and maintain a commitment to impartial regard by serving all participants at all times. A mediator shall withdraw from the mediation process if there are conflicts of interest or prior or present relationships with participants that may appear to compromise their impartiality, or continue only with the informed consent of all parties.

- Confidentiality: A mediator shall maintain the reasonable expectations of the participants with regard to confidentiality, and in a manner consistent with confidentiality laws for the State of Oregon, as specified in the “Agreement to Mediate” signed by the participants prior to mediating.
- Competence: A mediator shall exercise his/her judgment and discretion as to whether s/he is competent to mediate a particular dispute, including in such judgment factors such as style of mediation, subject matter or the dispute, issues and participants involved. The mediator shall request appropriate assistance, withdraw or decline to serve if the necessary knowledge, skills and ability to mediate a particular dispute are lacking. IPR may arrange additional training for mediators relevant to citizen/police mediation.
- Encourage Good Faith Participation: The mediator shall encourage participants to participate in good faith, lay ground rules for acceptable, respectful conduct, and to terminate any mediation in which one or both of the parties refuse to adhere to those rules or the fairness and integrity of mediation cannot be maintained. Neither party shall be permitted to use a mediation session as an opportunity to demean, insult or intimidate the other party.
- Fees: The mediator shall not solicit or accept payment from participants additional to the fee paid by the Independent Police Review Division for a given mediation.
- Dual-Role Limitations: The mediator shall not engage in any non-mediative, advocacy role during mediation.

Section 5 - Reporting

The IPR will make every effort to minimize the reporting required of mediators. However, the Independent Police Review is obligated to obtain information regarding mediation sessions necessary for quality monitoring purposes and to meet IPR’s own reporting and research requirements. Accordingly, outcome surveys will be distributed to all mediation session participants, including the mediators. (See Attached Survey). Participation in the survey is voluntary for the mediating parties, but timely participation is required of contracted mediators. Mediator survey forms will be distributed to mediators when cases are assigned, and are to be submitted along with the invoices for each mediation.

Section 6 - Monitoring

The IPR Community Relations Coordinator may attend mediation sessions as an observer, in adherence to the same conditions of confidentiality as all other participants. The purpose of any such observation or recording would be solely for quality monitoring and administrative purposes by the Independent Police Review Division, and no privileged information would be made available to any other parties for any reason.

HISTORY

Submitted for inclusion in PPD October 23, 2002.

Originally published as CRC PROTOCOL NO. 02-10, approved by IPR Citizen Review Committee, effective September 3, 2002.

Appendix D: Portland Mediation Program Protocols

INDEPENDENT POLICE REVIEW DIVISION (IPR) - MEDIATION PROGRAM PROTOCOLS

*Administrative Rules Adopted by Bureau Pursuant to Rule-Making
Authority*
ARB-PSF-5.09

1. At the conclusion of an interview with any IPR complainant, unless a case involves an allegation of excessive use-of-force (except in extraordinary circumstances) or an allegation of criminal conduct against an officer, the IPR Intake Investigator shall ask the complainant whether s/he would be interested in mediating the complaint. The IPR Intake Investigator shall explain the mediation program to the complainant (including the fact that there can be no appeal from a mediation) and indicate in the IPR file whether the complainant is amenable to the process.

2. The IPR Intake Investigator shall complete the processing of the complaint, in accordance with normal IPR policies and procedures, and submit the complaint for review by the IPR Director.

3. The IPR Director shall determine whether the complaint appears appropriate for mediation. No case may be assigned for mediation without the approval of the IPR Director. If the IPR Director concludes that a case may be appropriate for mediation, s/he shall immediately confer with the Captain of the Internal Affairs Division (IAD) in order to determine whether the Bureau will accept the case for mediation. No case may be assigned for mediation without the approval of the IAD Captain or his/her designee.

4. Upon approval by the IPR Director and the IAD Captain for mediation, the IPR file shall be provided to the IPR's Community Relations Coordinator.

5. If the IAD Captain approves a case for mediation, a notice, preferably e-mail, will be sent to the officer through his/her RU Manager, within two days of the decision to approve the case for mediation, which shall include:

- the complaint number,
- the name of the complainant(s),
- the time and place of the incident involved,
- the nature of the complaint,

- an explanation of the mediation program,
- an advisement to the officer(s) of the IAD Captain's conclusion that the case is appropriate for mediation,
- an order from the IAD Commander that the involved officer(s) contact the IPR Community Relations Coordinator at (503) 823-0926 within the officer(s)' next three working days of receipt of the notice,
- an explanation that participation in the mediation program is purely voluntary and that upon completion of the mediation, the complaint will be categorized as "IPR Referred-Mediation."

The IAD Captain shall also send a written confirmation of this notice, via Inter-Office Mail, with a copy to the appropriate Assistant Chief.

6. The involved officer's Commander shall ensure that the involved officer(s) are provided with the notice from IAD as soon as possible.

7. The Community Relations Coordinator will explain the mediation process and ask the officer(s) if they want to mediate the complaint. If any of the involved officer(s) decline to participate in mediation, the complaint shall be processed for possible referral to Internal Affairs in accordance with normal IPR policies and procedures.

8. If the involved officer(s) agrees to mediation, the IPR Community Relations Coordinator shall determine the officer(s)' availability for mediation to be conducted within the next 30 days. The Community Relations Coordinator shall then contact the complainant in order to verify his or her willingness to participate in the program. The Community Relations Coordinator shall explain to the complainant that upon the conclusion of the mediation, there will be no Internal Affairs investigation and no appeal to the IPR or the Citizen Review Committee. If the complainant declines to participate in the program, the complaint shall be processed for possible referral to Internal Affairs, in accordance with normal IPR policies and procedures. If the complainant agrees to participate in the program, the Community Relations Coordinator shall determine the complainant's availability for mediation to be conducted within the next 30 days.

9. The Community Relations Coordinator shall contact the previously approved mediators on the IPR Mediation Panel and assign one or two mediators to handle a mediation, which shall take place at a time and

location appropriate for all parties. The Community Relations Coordinator shall contact the involved officer's supervisors in order to facilitate the officer's appearance at the mediation while on duty.

10. The Community Relations Coordinator shall communicate to all of the involved parties (by the best means available) the time, date and location of the mediation. The Community Relations Coordinator shall forward IPR mediation literature to all of the involved parties to assist them in preparation for the mediation. The Community Relations Coordinator shall also send to the involved parties the "consent to mediate" form, which shall include a confidentiality agreement for their signature.

11. The Community Relations Coordinator shall be responsible for ensuring that the mediation is scheduled and conducted within 30 days of the assignment of the involved mediator(s).

12. All mediations must be conducted within the city limits of Portland, unless express consent is otherwise received from the involved officer(s) and the complainant. No mediation shall take place in a Police Bureau facility without the express consent of the complainant.

13. If a complainant fails to appear for a scheduled mediation session, without good cause, the involved officer(s) will be provided with the choice of either rescheduling the mediation or having the case declined by the IPR. If any of the involved officer(s) fails to appear for a previously scheduled mediation, without good cause, the IPR Director will notify the officer's RU Manager, through channels, so that appropriate action can be taken. The complaint may then be processed for possible referral to Internal Affairs, as per normal IPR policies and procedures.

14. Any mediation may be observed by the IPR Director, the Community Relations Coordinator or another member of the IPR staff or a member of the CRC, as designated by the IPR Director.

15. The IPR Director may forward a letter of recognition to the Chief of Police for any officer who voluntarily participates in the IPR mediation program with respect to a complaint which would otherwise have been an IPR or IAD decline.

16. Upon the completion of the mediation and the receipt of a report from the assigned mediator(s) indicating that the mediation has taken

place, the IPR Director shall categorize the complaint as "IPR Referral-Mediation" and the case shall be closed. No entry relating to the mediation shall be placed in an involved officer's IAD file. The assigned mediator(s) shall be required to provide a report to the Community Relations Coordinator within seven days of the completion of the mediation.

17. No appeal of a completed mediation shall be permitted before the Citizen Review Committee. The CRC Internal Process Work Group shall, however, audit complaints handled as mediations on a quarterly, semi-annual or annual basis, as instructed by the CRC and provide appropriate comment to the IPR and IAD on the handling of mediations on a continuing basis.

History Narrative

Adopted September 3, 2002

Amended July 3, 2003

- To allow for the mediation of use-of-force complaints in extraordinary circumstances and to remove prohibition from discussing workgroup audits at Citizen Review Committee meetings.

HISTORY

Submitted for inclusion in PPD October 23, 2002.

Originally published as CRC PROTOCOL NO. 02-09, approved by IPR Citizen Review Committee, effective September 3, 2002.

Amended by IPR and approved by CRC July 2, 2003.

RESULT OF SERVICE COMMENT REVIEW

SC# (PDE) _____		SCR# _____	
<input type="checkbox"/> Commendation	<input type="checkbox"/> Service Complaint <input type="checkbox"/> Personnel Complaint	<input type="checkbox"/> Department Investigation <input type="checkbox"/> Unit Level Investigation IAB # _____	
FINAL REVIEW DISPOSITION		FINAL NOTIFICATIONS/PROCESSING	
<input type="checkbox"/> Commendation Public (Received from individual members of the public, business, corporations, associations, etc.) <input type="checkbox"/> Commendation Professional (Government entities expressing appreciation for professional services provided by our personnel.) <input type="checkbox"/> Review Comp - Service Only - No further action <input type="checkbox"/> Employee conduct was reasonable (Facts show that the employee's actions in this incident were in compliance with established procedures, policies, guidelines or training.) <input type="checkbox"/> Appears employee conduct could have been better (The employee's actions were in compliance with established procedures, policies, guidelines. Complaint could have been minimized if the employee had employed tactical communication principles or some common sense.) <input type="checkbox"/> Employee conduct should have been different (Employee's actions in this incident were not in compliance with established procedures, policies, guidelines, or training. W/C will take corrective action.) <input type="checkbox"/> Unable to make a determination (Reporting party's word against an employee's word. The inquiry reveals insufficient evidence to corroborate the version of facts presented by either person. Unable to contact the complainant, and no indication of misconduct is present from other sources; or we are unable to identify the personnel involved.) <input type="checkbox"/> Conflict Resolution (Watch Commander/Supervising Lieutenant was able to use conflict resolution techniques to respond to the complaint.)		Date WSCR Received by Unit: _____ Date Acknowledgment Letter sent to Reporting Party: _____ Date Investigation Completed: _____ Date Final Outcome Letter Sent to Reporting Party: _____ Date Completed Review Form provided to Employee: _____ Provided by: _____ Emp #: _____	
		ATTACHMENTS INCLUDED <input type="checkbox"/> Original WSCR <input type="checkbox"/> Watch Commander's Memo <input type="checkbox"/> Acknowledgement Letter to Reporting Party <input type="checkbox"/> Final Outcome Letter <input type="checkbox"/> Audio tapes Quantity: _____ <input type="checkbox"/> Video Tapes Quantity: _____ <input type="checkbox"/> Other: _____ (Please Specify)	
<input type="checkbox"/> Watch Commander's Discretion: Service Review Terminated <input type="checkbox"/> Previously exonerated complaint <input type="checkbox"/> Under the influence - re-contacted <input type="checkbox"/> Irrational/unstable/diminished capacity <input type="checkbox"/> Third party - no witnesses/aggrieved uncooperative <input type="checkbox"/> W/C personal knowledge of false complaint EXONERATION <input type="checkbox"/> The employee was not personally involved or in any way connected to the incident(s) or allegation in question. <input type="checkbox"/> The allegation giving rise to the investigation was demonstrably false and brought in demonstrable bad faith or by virtue of an obvious and demonstrable mental disease or defect. <input type="checkbox"/> The allegation in question, broadly construed and even if true, would not in any circumstance constitute a violation of law or Department policy, rule, or procedures and is not otherwise censurable. It is requested that _____ a subject, be deemed exonerated. Emp. # _____ Division Chief (Print Name): _____ Signature: _____ Date: _____		FINAL REVIEW DISPOSITION Unit Commander (Print Name): _____ Signature: _____ Date: _____ Division Commander (Print Name): _____ Signature: _____ Date: _____ FOR DISCOVERY UNIT USE ONLY Date Received by Discovery Unit: _____ Review by: _____ Date: _____ Entered into PPI by: _____ Date: _____ Comments: _____	
Rev. 7-30-03			

The LASD shooting in a Compton residential neighborhood on May 9, 2005, where deputies fired 120 rounds in rapid succession at the driver of an SUV following a pursuit, endangered the lives of residents in nearby dwellings and injured the driver and a sheriff's deputy caught in the crossfire. The shooting embarrassed the LASD.

A recent report by the Office of Independent Review (OIR) answers many questions about the incident, including how ten deputies gathered near the SUV and began shooting without any apparent plan, without any apparent supervision, and without appropriate concern for background, crossfire, and the danger to themselves and the residents in the neighborhood. OIR notes that several of the deputies disobeyed orders to disperse at the conclusion of the pursuit, to go into surveillance mode, and to set up or reinforce a perimeter or containment. The OIR report agrees with the LASD that the performance of nearly all the officers and one of the supervisors was substandard and, in some cases, substantially below standard.

While we have no quarrels with OIR's report, and in the main concur with its findings, we write separately to provide our own views, particularly with respect to strikingly deficient risk management and officer training before the event. In short, our thesis is that the LASD has increasingly short changed in-service training calculated to refresh and reinforce patrol skills, including end of pursuit and shooting scenarios. As OIR noted, five of the ten deputies involved in the Compton shooting had not attended in-service reinforcement of patrol skills, including highly perishable

shooting skills, in the past two years. There is a record of only one deputy from the Compton Station attending such training in 2003. The LASD requires such training every two years in recognition that patrol skills frequently must be refreshed and updated. Mostly for budgetary reasons, captains are reluctant to release deputies from patrol duty for training; as a result, the training is lagging behind, both at Compton and elsewhere in the Department. Although we cannot state that inadequate training “caused” the Compton shooting in any legal sense, it nonetheless was a significant factor.

Another factor is the role that the City of Compton indirectly played in the shooting. When the LASD first proposed to serve Compton five years ago, it advocated having at least 100 officers on the streets for a budget of \$16 million. Compton did not take this advice and has tried to make do with 70 officers on a \$12 million budget. The budget for law enforcement in Compton has apparently stayed static since Compton became a contract city. If Compton had a more generous public safety budget and covered the cost of sending deputies for in-service refresher training on patrol skills, it could reduce the risk of such incidents.

OIR points to steps the LASD has taken in the wake of the Compton shooting to correct problems. While we agree that in recent years the Department has gotten somewhat better in closing the barn door after the horses have bolted through corrective action after the fact, our concern is that the LASD’s prospective risk management was not up to par. The Compton shooting would likely not have taken place if the LASD had anticipated and made adequate provisions for foreseeable risks, such as shootings at the end of pursuits, and trained repeatedly how to avoid the risks. By the same token, the driver of the SUV in question surely must have known that his repeated failures to pull over and his role in the chase involved a risk of being shot or suffering some other injury.

In any event, the Compton incident has become a watershed event for the Sheriff's Department. In a departure from business as usual:

- The Sheriff met with residents of the neighborhood shortly after the shooting to express his regret and disapproval of the incident, conceding that too many rounds had been fired and offering apologies to residents;
- nine of the ten deputies involved in the shooting, represented by LASPA (an alternative deputy's union to ALADS), publicly apologized;
- the deputies gave compelled statements to Internal Affairs without insisting that IA wait until after the District Attorney had declined to prosecute;
- the Office of Independent Review attended and asked questions during the compelled interviews of many of the involved officers;
- the Internal Affairs investigation was concluded in a month's time and proposed discipline for certain of the deputies and a sergeant was quickly announced; and
- the LASD's policy on shooting at moving vehicles was overhauled and rapidly promulgated.

The strategy employed by the LASD in the aftermath was excellent community relations and crisis management. The public apologies by the Sheriff and the deputies defused growing public anger, and we strongly support the Sheriff and the deputies for having the backbone, humility, and good sense to apologize. Similarly, we support the Sheriff's decision to be more visible and accessible to the community in Compton following the incident.

The speedy Internal Affairs investigation and the Sheriff's announcement of proposed discipline effectively took the wind out of further critical public scrutiny of the event. Attention shifted from the disturbing nature of the Compton shooting to the positive steps the LASD took in the aftermath. The crisis management strategy worked so well that it generated a piece in the *Los Angeles Times* praising the LASD for its rapid response to the Compton shooting and in essence damning (unfairly in our view) the LAPD by comparison for its assertedly slow processing of the Stanley Miller incident. Although we give our strong support to the Sheriff and involved deputies for successful efforts to connect with and apologize to the community, we must point out that great crisis management and community relations are not the same as great risk management.

Only time will tell whether adequate steps have been taken to avoid future such incidents. What can be said is that before the Compton shootings, there was a failure to adequately anticipate, train, and plan for the outcome of a simple pursuit as occurred in Compton. As noted earlier, the LASD has cut back severely on training. Ever since the Rodney King incident, any competent law enforcement agency should have dissected end of pursuit scenarios ad nauseam and thoroughly trained its officers to respond. The perfect storm of blunders, mistakes, forgotten or nonexistent training, disobedience, poor supervision, and lack of planning and foresight in Compton makes a person wonder whether the LASD has been doing all it should to identify and manage the commonplace risks and dangers inherent in pursuits.

The LASD has thus retreated in part to the pre-Kolts world of penny wise and pound foolish. Training should not be an optional budget item which can expand and contract at a whim. We endorse a

proposal we heard first from OIR that the LASD should insulate and protect an adequate fund for training that cannot be tapped for any other purpose, much like what occurs with the inmate welfare fund.

While we acknowledge the reality of budget constraints, it is frankly tiresome that lack of money is trotted out as the shopworn excuse for so many Department slip-ups, failures, omissions, near tragedies, and disasters. When we have asked about inmate safety and public health problems in the jails, we have been told that the budget precludes adequate levels of staffing, training, and risk management. When we have praised the work of trainers at Laser Village and talked about the need for more routine and continuous in-service training for highly perishable shooting skills, we have been informed of a lack of money. The LASD consistently tries to rationalize unattended-to problems in the jails by saying resources are needed for the streets and vice versa.

It is easy for the LASD to point to the Board of Supervisors to complain about inadequate resources for “public safety” or to the taxpayers for rejecting the half-cent sales tax increase. It is harder for the Department to look inward at why the LASD so compromised public safety in Compton. It is more difficult to anticipate, train and plan for an untoward event than to ignore or discount its probability and deal with the situation ad hoc when it happens.

The essence of risk management is to ask who could be injured or killed by a product or an activity and how best to avoid those outcomes. Policing necessarily involves the risk of death or injury to police officers, innocent third parties, and suspects. The formula for good risk management in law enforcement is simple to state but not always easy to apply: legitimate law enforcement ends must be achieved in a way that minimizes the risk of death or injury to suspects and third parties without raising the risk of death or injury to the police officers involved. The way to

achieve this is often through use of a case study – a prior incident where things went awry. Investigate it thoroughly, fairly, and dispassionately; look at the incident from multiple perspectives; conduct a decision point analysis; fashion appropriate policies, remedies, and prophylactic measures; and then train and retrain rank-and-file officers and first-line supervisors in the new policies and measures.

An incident resulting in serious injury or death requires examination from many perspectives. In setting forth the following questions, we do not mean to imply that the LASD did or did not conduct a deep and thorough investigation in Compton. The first is criminal: Did the police officers violate the criminal law by their conduct? If so, should the District Attorney indict one or more of the officers? The second is administrative: Did the officers or their supervisors and superiors fail to act in accordance with Department policy? If so, is discipline called for and what level of discipline is appropriate? The third is legal: Did the conduct of the officers or their supervisors and superiors expose the City or County to civil liability? If so, what should the consequences be to the officers and supervisors? The fourth is policy: Did the officers act in accordance with a policy that is flawed, ineffective, outmoded, or unsafe? If so, how should the policy be changed? The fifth is training: Did the officers receive adequate training in the policies in question, and was that training sufficiently reinforced and the officers' proficiency tested and corrected at proper intervals? The sixth is strategy and tactics: Are there better ways to approach and handle a given incident? Did the decision point analysis – taking the incident apart to examine each instance where an officer made a strategic decision – illuminate tactical or strategic errors? If so, what are they? The first three perspectives focus primarily on the conduct of the officer; the second three focus primarily on the Department.

If there is cause to believe an officer may have committed a crime, the matter will be referred to the District Attorney for possible prosecution. If an officer or his supervisors or superiors failed to follow department policy, the matter will be referred to the chain of command for counseling or possible discipline (in policing, usually administered as days off without pay), demotion, or termination. If the conduct of the officer or his supervisors or superiors was negligent, reckless, or worse, thereby exposing the City or County to actual or potential civil liability, the matter again will be referred to the chain of command for remedy: discipline, retraining if necessary, greater supervision, counseling, or a combination of the foregoing.

If the Department's policy is flawed, the remedy is a revised policy. If the policy is sound but the training is inadequate, the remedy is to retrain all who need it. If the strategy or tactics were flawed, the remedy is reformulation and retraining.

Regarding the Compton incident, only in the future will we know whether the LASD has done all it should to reduce or eliminate the risk of a recurrence. The substantial involvement of the Office of Independent Review (OIR) in the investigation gives greater assurance that the job was well done.

On one or two occasions, individuals speaking with us questioned whether the criminal case should have been completed and presented to the District Attorney, and a filing decision obtained, before the Department decided to impose discipline. We do not know whether the DA was approached formally or informally regarding the Compton shooting. But even if he were not, we question whether any harm resulted given the near certain unlikelihood of a criminal prosecution. Although one can debate whether some or all of the deputies engaged in negligent or reckless conduct, it does not seem to be a case where the deputies intentionally put innocent bystanders and third parties in harm's way.

Although the DA has the legal authority and the discretion to do so, prosecution of “mere” reckless misconduct by police officers is almost never initiated.

The deft handling of the incident’s aftermath by the Department and the short duration of the investigation meant that the incident did not become daily fare for the media. When an investigation drags on for months and months with little information filtering out from a law enforcement agency, the press and the public begin to wonder whether the agency is hiding facts, waiting for the public to lose interest, or is trying to protect the officers involved. At that point, investigative journalists begin their own independent inquiry, often leading to the discovery of embarrassing facts. No one can envy the difficult choices facing a chief executive in law enforcement.

It would not be right to close the books on the Compton shooting without further study by the Department. The incident raises many questions about the level of training or experience of these Compton deputies in handling pursuits, coordinating and communicating among themselves and with their supervisors, avoiding crossfire, and remaining conscious of background before opening fire. The incident also raises questions about the adequacy and frequency of in-service training. One can question whether end-of-pursuit scenarios either have not been developed, are ineffective, or have not been widely enough taught. The LASD’s readiness to meet predictable, every day situations must be called into question. The preparedness and competence of the Compton Station personnel, from the newest deputy to the captain, needs to be explored further, particularly because not all Compton deputies were sent to in-service refresher training every two years as the LASD purports to require. The problems may not be confined to Compton but may exist department-wide and thus merit continuing study and

attention. The remedial action taken to date is good as far as it goes. But the problems are deep ones.

In the wake of this incident, a new policy on firing at moving vehicles, which had been in desultory development for a year or so, was rapidly adopted. A copy of the new policy is attached at the end of this chapter. The Office of Independent Review takes pride in the new policy in which it played a significant role. It is similar to recent policies adopted by the LAPD and the Miami Police Department, among others. In essence, these policies require law enforcement officers to get out of the way of moving vehicles rather than firing at them. The LAPD's policy sets forth succinctly why shooting at or from moving vehicles is tactically unwise and ineffective:

1. Bullets fired at moving vehicles are extremely unlikely to stop or disable the moving vehicle.
2. Bullets fired may miss the intended target or ricochet and cause injury to officers or other innocent persons.
3. The vehicle may crash and cause injury to officers or other innocent persons if the bullets disable the operator.
4. Moving to cover, repositioning and/or waiting for additional responding units to gain and maintain a superior tactical advantage maximizes officer and public safety and minimizes the necessity for using deadly force.
5. Shooting accurately from a moving vehicle is extremely difficult and therefore unlikely to successfully stop or prevent a threat to the officer or other innocent persons.

Special Order No. 1, Office of the Chief of Police, February 16, 2005.

Each of the new policies – LASD, LAPD, and Miami – carve out narrow exceptions to an absolute ban on firing at vehicles in any circum-

stances. It used to be the case that officers could fire at a moving vehicle under the rationale that the vehicle itself perforce was a deadly weapon. That rationale no longer has viability. Instead, newer policies focus upon whether, in the paraphrased words of the LAPD's policy, the officer's life or the lives of others are in immediate peril and there is no reasonable or apparent means of escape. The LASD says essentially the same thing: A deputy may not fire at a motor vehicle unless the deputy has an objectively reasonable belief that "the vehicle or suspect poses an immediate threat of death or serious physical injury to the Department member or another person, AND the Department member has no reasonable alternative course of action to prevent the death or serious physical injury."

The LASD policy differs from Miami and the LAPD in listing the tactical and strategic considerations that will be used to evaluate whether the shooting deputy and all other involved LASD personnel performed to standards when shots are fired at a moving vehicle, regardless whether the shooting was in or out of policy. It is here that we have some quibbles with the wording (but not the substance) of the new policy. The new policy speaks of possible circumstances in which "a Department member *feels compelled* to fire at a motor vehicle..." (emphasis added). Respectfully, whether or not a deputy "feels compelled" to shoot is irrelevant and uncomfortably loose language. Feelings do not count: Only an objectively reasonable belief that life is immediately in peril and there are no means of escape can justify shooting at a moving vehicle.

The OIR has spoken approvingly of the deputies' willingness to talk to Internal Affairs prior to submission of the case to the District Attorney and a resolution by the DA whether to proceed criminally. We see it the same way. We have long advocated that the LASD in appropriate circumstances should exercise discretion to compel statements from deputies

without waiting for the DA first to act. The District Attorney's Office declines to prosecute the vast majority of cases proffered to it and, for political reasons and resources issues, among others, has been known to take a year or more before issuing a declination. The long wait for the DA to act means that the case is cold before it gets to Internal Affairs. Discipline of the officer, therefore, is never administered or is too late to be meaningful.

The District Attorney's Office is understandably wary of compelled statements, possibly recalling the LAPD's abuse of the power to compel statements and thereby frustrate a criminal prosecution in the era preceding Chief Bratton. Our view is that the LASD, as currently constituted, in consultation with OIR, as currently constituted, is competent at the outset to determine the likelihood of criminal prosecution and is unlikely to unfairly or unreasonably scuttle or prejudice a criminal investigation. Moreover, there is no reason that a criminal and administrative investigation cannot proceed on parallel yet totally separate tracks. The LAPD is currently experimenting with doing just that and is successfully negotiating the various pitfalls and traps that arise when a "clean" and a "dirty" team are at work simultaneously.

The asserted impediment to the LASD's ability to compel a deputy to provide a statement prior to a filing decision by the DA is a 1991 settlement agreement between the Department and the deputy's union called *Gates and Johnson*. We are not convinced that the settlement agreement is as legally binding and as much of a roadblock as the union argues that it is. For one, it does not discuss officer involved shootings. We recommend that County Counsel examine these issues. All the deputies involved in the Compton incident, including one represented by ALADS, waived the provisions of the settlement and gave statements. We hope it becomes routine for deputies to do so in appropriate circumstances when the risk of a criminal prosecution is clearly minimal.

It is certainly in the interests of deputies to do so. The internal administrative investigation can be resolved quickly and deputies will not have a cloud over their heads for months on end. The willingness of deputies to cooperate will undoubtedly mitigate to some degree whatever discipline is contemplated. It will permit lawyers for the County to assess more quickly whether there will be civil liability or significant exposure, thereby giving the lawyers a head start and more time to prepare. Likewise, it is clearly in the interests of the LASD. The public's approval of the Department will rise as the public perceives that the Department does not drag its feet and metes out appropriate discipline, if warranted, in a timely fashion.

In conclusion, the Compton shooting led to meaningful, positive departures from business as usual. The Sheriff was quickly and very visibly on the scene reassuring residents and making apologies. The involved deputies, well represented by LASPA and its attorney, made appropriate apologies and did not attempt to dodge giving statements to Internal Affairs, factors which, we have no doubt, properly influenced the discipline that has been proposed.

The Compton shooting itself was a frightening event, narrowly missing being a tragic one. For the LASD, it also was an embarrassing, if not humiliating, incident, raising serious questions about LASD policy, training, competence, and preparedness. The LASD nonetheless ably managed the aftermath. Sheriff Baca wisely did not engage in a Daryl Gates-like stonewall. Precedents were broken, and, for whatever reason, the principal deputies' union was unable or unwilling to play an obstructive role. What remains to be seen is whether the Department has taken or will soon take adequate steps to eliminate or substantially reduce the risk of a recurrence.

3-01/025.40 ASSAULTS BY MOVING VEHICLES - FIREARMS POLICY

This section reinforces the Department's Core Values and underscores the reverence for human life.

The use of firearms against moving motor vehicles is inherently dangerous and almost always ineffective.

For the purposes of this section, an assaultive motor vehicle shall not presumptively justify a Department member's use of deadly force. A Department member threatened by an oncoming motor vehicle shall move out of its path instead of discharging a firearm at it or its occupant(s), allow the vehicle to pass, and utilize other tactical or investigative means to apprehend the suspect. If Department members decide to engage the vehicle in a pursuit, that pursuit shall be governed by the Department's pursuit policy (5-09/210.00 et seq.).

When on foot, Department members, except as required for fixed-point traffic control, shall not position themselves or remain in the path of a moving motor vehicle. Additionally, they shall not stop in a position directly in front of or behind a driver-occupied, stationary motor vehicle. Such positions are inherently unsafe.

A Department member shall not discharge a firearm at a motor vehicle or its occupant(s) in response to a threat posed solely by the vehicle unless the member has an objectively reasonable belief that:

- The vehicle or suspect poses an immediate threat of death or serious physical injury to the Department member or another person, AND
- The Department member has no reasonable alternative course of action to prevent the death or serious physical injury.

In the extraordinary instance that a Department member feels compelled to fire at a motor vehicle or its occupant(s), the conduct of the involved personnel shall be evaluated in accordance with sound tactical principles including the following:

- Cover and/or tactical relocation
- Safe distance
- Incident command and tactical leadership
- Coordinated personnel placement
- Tactical approach
- Regard for viable target acquisition
- Due regard for background, including the location, other traffic, and innocent persons
- Due regard for crossfire
- Controlled fire and management of ammunition

06/02/05

Shooting and Use of Force Tables

Table A **Total LASD Shootings**

	2000			2001			2002		
	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>
Hit ¹	18	0	18	19	0	19	22	0	22
Non-Hit ²	15	0	15	11	3	14	16	0	16
Accidental Discharge ³	11	1	12	9	4	13	12	1	13
Animal ⁴	35	2	37	33	1	34	35	5	40
Warning Shots ⁵	2	0	2	0	0	0	0	0	0
Tactical Shooting ⁶	0	0	0	0	0	0	1	0	1
Total	81	3	84	72	8	80	86	6	92

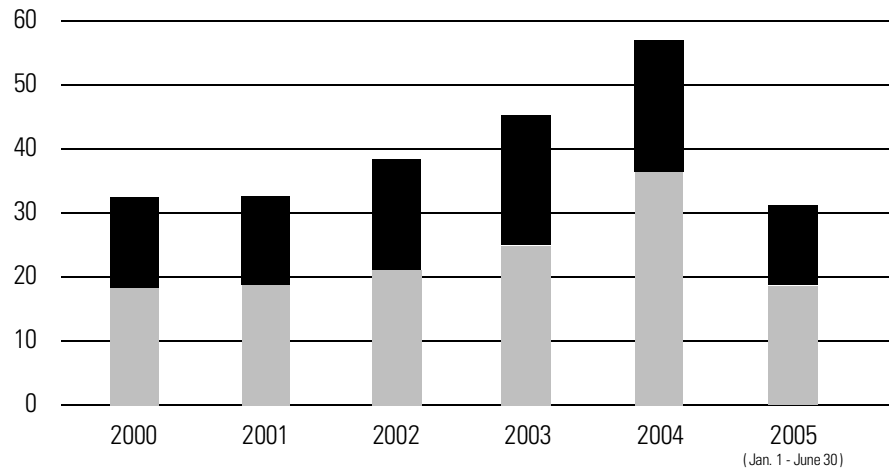
	2003			2004			2005 (Jan. 1-June 30)		
	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>
Hit ¹	24	1	25	36	1	37	19	0	19
Non-Hit ²	20	1	21	19	1	20	10	2	12
Accidental Discharge ³	12	2	14	8	3	11	0	1	1
Animal ⁴	35	3	38	28	1	29	21	0	21
Warning Shots ⁵	0	0	0	1	0	1	1	0	1
Tactical Shooting ⁶	0	0	0	0	0	0	0	0	0
Total	91	7	98	92	6	98	51	3	54

- 1 **Hit Shooting Incident:** An event consisting of one instance or related instances of shots (excluding stunbags) fired by a deputy(s) in which one or more deputies intentionally fire at and hit one or more people (including bystanders).
- 2 **Non-Hit Shooting Incident:** An event consisting of one instance or related instances of shots (excluding stunbags) fired by a deputy(s) in which one or more deputies intentionally fire at a person(s), but hit no one.
- 3 **Accidental Discharge Incident:** An event in which a single deputy discharges a round accidentally, including instances in which someone is hit by the round. Note: If two deputies accidentally discharge rounds, each is considered a separate accidental discharge incident.
- 4 **Animal Shooting Incident:** An event in which a deputy(s) intentionally fires at an animal to protect himself/herself or the public or for humanitarian reasons, including instances in which a person is hit by the round.
- 5 **Warning Shot Incident:** An event consisting of an instance of a deputy(s) intentionally firing a warning shot(s), including instances in which someone is hit by the round. Note: If a deputy fires a warning shot and then decides to fire at a person, the incident is classified as either a hit or non-hit shooting incident.
- 6 **Tactical Shooting:** An event consisting of an instance or related instances of a deputy(s) intentionally firing a firearm but not at a person, excluding warning shots (e.g., car tire, street light, etc.). Note: If a deputy fires at an object and then decides to fire at a person, the incident is classified as either a hit or non hit shooting incident.

Source: Internal Affairs Bureau

Table B LASD Shootings 2000 to 2005

■ Non-hit shootings
■ Hit shootings



Source: Internal Affairs Bureau

Table C LASD Hit Shootings by Unit

	2000	2001	2002	2003	2004	2005 as of 6-30
Number Of Incidents	18	19	22	25	37	19
Altadena Station	1	0	0	0	0	0
Carson Station	1	1	2	0	1 †	1
Century Station	2	6 *	5	2 **	10 ††	3
Community Colleges Bureau	NA	NA	NA	NA	NA	1
Compton Station	NA	NA	0	6 ***	6 ††	1
Court Services Bureau	NA	NA	0	0	0	0
Crescenta Valley Station	NA	NA	NA	NA	0	0
East Los Angeles Station	2	0	0	0	0	1
Industry Station	0	1	1	1	1	1
Lakewood Station	0	2	1	1	4	1
Lancaster Station	1	0	1	0	1	0
Lennox Station	0	4	2	0	6	1
Lost Hills/Malibu	0	0	0	1	0	0
Major Crimes Bureau	0	0	0	2	0	0
Marina Del Rey Station	NA	NA	NA	NA	1	0
Men's Central Jail	NA	NA	NA	1 ****	0	0
Mira Loma Facility	NA	NA	0	0	0	0
Miscellaneous Units	NA	NA	0	0	0	0
Narcotics Bureau	1	0	0	1 *****	0	0
Norwalk Station	1	1 *	1	1	2	0
Operations Bureau	NA	NA	NA	NA	1 ††	0
Palmdale Station	1	0	3	0	0	2
Pico Rivera	0	0	1	1	1	0
Safe Streets Bureau	NA	NA	1	4 ***	3 ††	1
San Dimas	0	0	1	0	0	0
Santa Clarita Valley Station	1	0	0	0	2	1
Special Enforcement Bureau	2	3 *	0	3	0	2 †††
Temple Station	3	1	1	1	0	1
Transit Services Bureau	0	0	0	1 ***	1	1
Walnut Station	0	1	0	0	0	0
West Hollywood Station	NA	NA	0	0	0	1
Number of Suspects Wounded	6	8 *	11	12	12	14
Number of Suspects Killed	12	12	11	16	27	5

* One shooting (2-18-01), involved three units (Century, Norwalk and SEB). Two suspects were wounded.

** In the Century Station shooting (5-1-03), one suspect was killed and one suspect was wounded.

*** One shooting (7/8/03) involved three units (Safe Streets Bureau, Compton Station, and Transit Services Bureau).

**** The Men's Central Jail shooting occurred off duty, away from the facility.

***** In the Narcotics Bureau shooting (11/11/03), two suspects were wounded.

† In the Carson Station shooting (3-31-04), one suspect was killed and one wounded.

†† One shooting (1-5-04) involved four units (Century, Compton, Safe Streets Bureau and Operations) and resulted in the deaths of two suspects.

††† Both shootings occurred while assisting outside agencies (2-8-05 Downey Police Department, 6-7-05 California Highway Patrol).

Source: Internal Affairs Bureau

Table D LASD Non-Hit Shootings by Unit

	2000	2001	2002	2003	2004	2005
						as of 6-30
Number Of Incidents	15	14	16	21	20	12
Carson Station	2	0	1	0	1 **	1
Century Station	2	6	3	4	5 **	2
		<i>(1 off duty)</i>				
Century/Compton Transit Services	2	1	0	0	0	0
Cerritos	NA	NA	1	0	0	0
Compton	NA	NA	2	4	3	2
Crescenta Valley Station	NA	NA	NA	NA	1	0
East Los Angeles Station	1	1	1	2	0	1
Gang Murder Task Force	NA	NA	NA	NA	NA	1
Homicide Bureau	NA	NA	NA	NA	NA	1
Industry Station	2	6	2	2	0	0
Lakewood Station	2	0	0	1	0	1
Lancaster Station	NA	NA	1	1	1	0
Lennox Station	0	1	1	2	1	2
Lost Hills Station	NA	NA	NA	NA	1	0
Marina del Rey	0	1	0	0	0	0
Men's Central Jail	0	1	0	1 *	0	0
Narcotics Bureau	0	0	0	0	0	0
Norwalk Station	0	0	2	1	0	0
Palmdale Station	0	1	0	1	0	0
Pico Rivera	2	0	0	0	0	0
Safe Streets Bureau	0	1	0	1	3	1
Santa Clarita Valley Station	2	0	0	0	1	0
Special Enforcement Bureau	1	1	0	0	1	0
Temple Station	1	0	1	0	0	0
Transit Services Bureau	NA	NA	NA	NA	2	0
Twin Towers	NA	NA	0	0	1 *	0
Walnut Station	NA	NA	0	1	0	0

* The Men's Central Jail and Twin Towers shootings occurred off duty, away from the facility.

** One shooting (2-6-04) involved two units (Carson and Century).

	2000	2001	2002	2003	2004	2005
Incidents Resulting in Force/Shooting Roll-Out	91	87	92	89	115	52

Source: Internal Affairs Bureau

Table E LASD Force

Department Wide*	2001	2002	2003	2004	2005
					Jan 1 - June 30
Force Incidents (Total)	2190	2399	2645	2643	1305
Total Force/100 Arrests	2.31	2.60	2.81	2.69	2.34
Significant Force:					
Hospitalization/Death/100 Arrests	0.01	0.02	0.01	0.01	0.02
Significant Force:					
Visible Injury/100 Arrests	0.52	0.63	0.68	0.78	0.66
Significant Force:					
Complaint of Pain/100 Arrests	0.37	0.37	0.38	0.42	0.45
Significant Force:					
No Complaint of Pain/Injury/100 Arrests	0.35	0.42	0.40	0.28	0.27
Less Significant Force Incidents/100 Arrests	0.43	0.75	0.88	0.48	0.94
OC Spray/100 Arrests	0.63	0.41	0.46	0.71	0.54
<hr/>					
Field Operation Regions (FOR)	2001	2002	2003	2004	2005
					Jan 1 - June 30
Region I Force Incidents	349	401	406	496	252
Per 100 Arrests	1.19	1.40	1.40	1.44	1.35
Region II Force Incidents	584	568	589	634	296
Per 100 Arrests	1.85	1.96	2.1	2.35	2.13
Region III Force Incidents	353	271	356	354	180
Per 100 Arrests	0.21	0.96	1.17	1.16	1.17
FOR Total Force Incidents	1286	1240	1351	1484	728
Per 100 Arrests	1.43	1.45	1.55	1.61	1.52
<hr/>					
Field Operation Regions (FOR)	2001	2002	2003	2004	2005
					Jan 1 - June 30
Regions I, II & III Significant Force	739	700	699	782	418
Per 100 Arrests	0.82	0.82	0.80	0.85	0.87

* Includes all patrol stations and specialized units, including custody and court services.
 Source: Management Information Services

Table F **LASD Force/100 Arrests All Patrol Stations**

Station	2001	2002	2003	2004	2005
					Jan 1 - June 30
Altadena	NA	1.87	1.68	1.31	1.56
Crescenta Valley	1.20	0.53	1.40	1.15	2.58
East LA	1.04	1.38	1.11	1.14	1.93
Lancaster	0.92	1.39	1.63	1.54	1.51
Lost Hills/Malibu	0.86	0.67	1.11	1.21	1.17
Palmdale	1.79	1.81	1.85	1.37	0.63
Santa Clarita	1.15	1.42	1.55	1.95	1.99
Temple	1.52	1.28	0.79	1.39	1.22
Region I Totals	1.21	1.40	1.40	1.44	1.35
Carson	1.33	1.44	1.56	1.77	2.24
Century	2.42	2.29	2.16	3.18	2.01
Community College	NA	NA	7.14	7.03	12.00
Compton	1.71	2.59	3.04	1.86	1.79
Lomita	1.50	2.32	0.87	1.17	0.48
Lennox	1.31	1.41	1.80	1.24	1.70
Marina del Rey	1.42	2.17	2.12	1.29	1.11
Transit Services Bureau	NA	1.71	2.06	4.53	4.76
West Hollywood	2.19	2.29	2.29	2.71	2.29
Region II Totals	1.87	1.96	2.10	2.35	2.13
Avalon	2.00	1.43	2.04	2.49	0.00
Cerritos	1.20	1.65	1.16	1.73	1.25
Industry	1.16	0.71	1.06	0.97	0.74
Lakewood	1.35	1.39	1.61	1.41	1.64
Norwalk	1.16	0.90	1.20	1.26	1.25
Pico Rivera	0.97	0.67	0.81	0.95	1.16
San Dimas	1.17	0.83	1.13	0.62	0.72
Walnut	0.78	1.03	0.80	0.87	0.96
Region III Totals	1.21	0.96	1.17	1.16	1.17

