

*The Los Angeles County*

# **Sheriff's Department**

**A Report by**

**Special Counsel James G. Kolts & Staff**

**July 1992**



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# 1. Introduction

In December 1991, the Board of Supervisors of Los Angeles County appointed the undersigned as Special Counsel to conduct a review of "the policies, practices and procedures of the Sheriff's Department, including recruitment, training, job performance and evaluation, record keeping and management practices, as they relate to allegations of excessive force, the community sensitivity of deputies and the Department's citizen complaint procedure." Throughout this report, the Sheriff's Department is also referred to as "The Department" and "the LASD."

An increase over the past years in the number of officer-involved shootings prompted this inquiry. Four controversial shootings of minorities by LASD deputies in August 1991 added a measure of urgency. These shootings, like the Rodney King beating with regard to the Los Angeles Police Department ("LAPD"), deepened an awareness that increasingly serious problems of excessive and deadly force were plaguing the LASD. That Los Angeles County (the "County") had paid \$32 million in claims arising from the operations of the LASD over the last four years also caused the Board of Supervisors to wonder if corrective measures could improve the operations of the LASD.

**My staff and I found deeply disturbing evidence of excessive force and lax discipline. The LASD has not been able to solve its own problems of excessive force in the past and has not reformed itself with adequate thoroughness and speed.** Implicitly acknowledging this, the top management of the Sheriff's Department wanted us to appreciate that since mid-1990, it has been in the process of self-imposed change in its approach to force, discipline, training, and community orientation. The Sheriff's Department is quick to point out that it began a serious process of self-criticism regarding brutality by its deputies before the Rodney King beating made it impossible for any police agency any longer to sidestep the long-festered but long-ignored problem of excessive force.

Prompted perhaps by a lengthy and very critical front page expose of the increasing costliness of excessive force lawsuits which appeared in the Los Angeles Times on Sunday, May 27, 1990, a Task Force was established by the Sheriff in June, 1990 to study exten-



**Los Angeles  
Sheriff's Department  
Core Values**

**We shall be service oriented and perform our duties with the highest possible degree of personal and professional integrity. Service Oriented Policing means:**

- Protecting life and property
- Preventing crime
- Apprehending criminals
- Always acting lawfully
- Being fair and impartial and treating people with dignity
- Assisting the community and its citizens in solving problems and maintaining the peace

**We shall treat every member of the Department, both sworn and civilian, as we would expect to be treated if the positions were reversed.**

**We shall not knowingly break the law to enforce the law.**

**We shall be fully accountable for our own actions or failures and, when appropriate, for the actions or failures of our subordinates.**

**In considering the use of deadly force, we shall be guided by reverence for human life.**

**Individuals promoted or selected for special assignments shall have a history of practicing these values.**

■

sively the question of the application of force by deputies. Principal Deputy County Counsel Gordon W. Trask, working with Commander James Callas, conducted an examination of the issue by a committee of at least 25 persons drawn from all areas of the Department.

In December, 1990, Gordon Trask and Commander Callas submitted the Task Force's twenty-three recommendations to the Sheriff, and since then, the Department has been involved in implementing or planning the implementation of virtually all of the recommendations.

Although this report will demonstrate that the Task Force did not go far enough, its work was very useful to the Department in several ways: It represented a well-intentioned effort to address force issues and demonstrated thereby that the Sheriff's Department was willing to think about these issues and to consider reform. The Task Force evidenced the candor with which the Department looked at itself. It negated any inference that the LASD would permit a policy or practice of encouraging excessive force. The Sheriff's Department has been ably served by Gordon Trask and James Callas.

Just as the Task Force had completed its work and its efforts were to be announced, the Rodney King incident occurred on March 3, 1991. The Sheriff's Department held up formal announcement of the recommendations because it did not want the unwarranted inference to be drawn that the Task Force recommendations were being implemented in response to the King case.

In July, 1991, the Independent Commission on the Los Angeles

Police Department, better known as the Christopher Commission, issued its report on the Rodney King incident and the LAPD. Sheriff Block, quickly recognizing its importance, charged his Executive Planning Council ("EPC") with the responsibility of reviewing the findings and recommendations and determining their applicability to the Sheriff's Department. The EPC did so, issuing a lengthy report on September 6, 1991. The EPC found itself in agreement with most of the Christopher Commission recommendations as they reformulated and reinterpreted them and, as such, recommended implementation. Task forces and committees and working groups were set up to consider implementation, and that effort goes on to this day.

Running in tandem with his efforts regarding the Christopher Commission, Sheriff Block initiated his Core Values project. The project team was charged with assessing the work of the EPC in responding to the Christopher Commission report, assessing the work of the Task Force on Use of Force, assessing the work of the Department's Service Oriented Policing Committee and developing a plan of action for the Los Angeles County Sheriff's Department which "will result in the internalization of core beliefs and attitudes, ultimately resulting in improved practices which will make the Department a more effective and responsive policing agency." The Sheriff's Core Values Statement is reproduced in the adjacent sidebar.

Our task in part was to evaluate these internal efforts to determine whether the Department has made adequate progress in addressing excessive force and its causes. We want to make it clear from the outset that we believe the Department has made some progress and is improving still. It has many bright, able, well-meaning people whom we have come to respect. Much of the credit for the openness to change and flexibility goes to Sheriff Block. His temperament and style has encouraged self-examination within the Department.

**Nonetheless, this report is a somber and sobering one in terms of the large number of brutal incidents that have been and still are occurring. This Department,**

like the LAPD, has too many officers who have resorted to unnecessary and excessive force. The Department has not done an adequate job disciplining them. It has not dealt adequately with those who supervise them. It has not listened enough to what the communities and constituencies of the LASD want and expect in their police.

Thus, the Department has a longer way to go than it has travelled thus far before its procedures and practices in the area of force, complaint resolution, internal investigation, and community policing are at levels consistent with Sheriff Sherman Block's expressed core values and where this large and very important law enforcement agency should be.

We make many specific recommendations to help reduce excessive force and the exposure of the County to civil liability on these claims. As this report will make clear, we recommend substantial reform of the process for the receipt and resolution of citizen complaints. We urge the elimination of any and all roadblocks or intimidation or discouragement to expression of a resident's right to complain and be heard with respect to asserted police misconduct. We recommend responsible review of LASD determinations that citizens' complaints are not well-founded by detached and neutral persons outside the Department. We recommend internal reform to make everyone in the Department accountable for reducing excessive force and listening to the voice of the community. We recommend that conference committees comprised of sheriff's personnel and community members be formed at each station. We recommend regular outside audits of the LASD.

In sum, we recommend that the Department concentrate intense energy and commitment to move the Department much faster and much farther toward community policing, problem-solving policing, and toward a style of policing that treats every county resident with dignity and respect and deals firmly with any employee who does not.

Our recommendations do not cut deeply across the grain of the direction in which the Department is heading. We do not see the necessity of stopping a behemoth dead in its tracks and getting it moving in an opposite direction. **Rather, we see our task principally as one of urging Sheriff Block and his senior staff to listen hard to what his Captains and Lieutenants are saying about dealing with excessive force; to pay careful attention to what certain of his Chiefs and Commanders, especially the minorities and women among them are urging; to hear and respond to the message of pain and hurt that is coming from the Hispanic and African-American communities in particular; to take seriously and thoughtfully the well-intentioned comments of women inside and outside the LASD and the well-meaning criticisms of lesbians, gays, racial and ethnic minorities, and others who are having a very hard time being heard by the top management of the LASD.**

We cannot quarrel with Sheriff Block's Core Values Statement. We respect the seriousness of its purpose and its articulation of values that, if fully implemented, would make the LASD a truly superb police force. We endorse it entirely and wholeheartedly. It mirrors our aspirations for the Department. We hope that our report and recommendations that follow will serve to help make these core values a reality. Whether they will become a reality depends most importantly on political will. Some of our recommendations will involve the expenditure of substantial sums of money. Whatever money is spent on reform will be exceeded by money saved over the long run in judgments and settlements of excessive force cases against the Sheriff's Department.

It is my hope, and that of the staff, that this report will meet the mandate of the Board of Supervisors and constitute a worthwhile contribution to law enforcement in this County. With these hopes in mind, we now turn to our review of the operations of the Sheriff's Department.

*James G. Kolts*



## **2 . G e n e r a l B a c k g r o u n d**

The Los Angeles County Sheriff's Department is currently the third largest urban police force in the United States, ranking behind New York City and Chicago. The Sheriff's Department has approximately 8500 funded positions for sworn personnel and approximately 4200 funded positions for civilians, bringing it to a total of approximately 12,700. Not all the funded positions are filled, however: As of the end of May 1992, there were approximately 8000 sworn personnel and 3800 civilians on the job. By way of comparison to the County's other major law enforcement agency, the Christopher Commission reported that in 1991 the Los Angeles Police Department had approximately 8450 sworn personnel and approximately 2000 civilians. The LAPD has a somewhat larger budget, although comparisons here are difficult because the LASD performs many tasks which the LAPD does not — notably, the LASD runs all of the County Jail facilities, transports inmates from the jails to the courthouses, and provides security services for the Superior Courts. Generally speaking, the LAPD budget for policing services is about \$550 million and the LASD budget for the same services is about \$500 million.

The Sheriff's Department serves a population of approximately 2.5 million persons in a 3182 square mile area; the LAPD serves 3.5 million persons in a 465 square mile area. The demographics of the City of Los Angeles and the overall demographics of the County of Los Angeles are similar: The City is 37% Caucasian, the County 40%; the City is 13% African-American, the County 12%; the City is 40% Hispanic, the County 37%; and the City is 10% Asian, Pacific Islander and other, while the County is 11%. Both the LAPD and the LASD have very low ratios as compared to most major police departments: There are approximately 2 sworn personnel per each 1000 persons served. By contrast, New York City had, as of 1986, 3.7 sworn officers per each 1000 persons; Detroit had 4.7; and Chicago had 4.1.

There are 87 incorporated cities and several unincorporated communities in Los Angeles County, the total population of which is approximately 9 million. The LASD is the law enforcement provider in the unincorporated areas of Los Angeles County, along the

Southern California Rapid Transit District's Blue Line, and in 41 municipalities within the County which contract with the Sheriff's Department for police services and are generally known as the "contract cities." Chart 1 is a synopsis of the contract cities program. There are significant variations among the contract cities in terms of the level of service. La Puente, for example, has a population of approximately 37,000 in 3.5 square miles. It spends about \$3.4 million for about 32 personnel. West Hollywood, in contrast, has a population of 36,000 in less than 2 square miles and spends almost \$9 million for about 98 personnel.

It is important to keep in mind that the contract cities decide the level of police service they want from the Sheriff's Department. If there are significantly differing levels of service in different areas, one must look in part to the responsible officials in each of the contract cities to account for these variations.

The contract cities in the main are more heavily populated and are concentrated in a smaller area. The contract cities total approximately 1.5 million people in about 500 square miles. The unincorporated areas of the County, in contrast, have approximately 1 million people in 2700 square miles. Many large municipalities within the County are served by the Sheriff, including the cities of Carson, Lancaster, parts of Long Beach, Norwalk, Palmdale, Bellflower and Diamond Bar.

The population densities of the areas served by the Sheriff vary widely. Antelope Valley has about 186 people per square mile; East Los Angeles has about 10,400 people per square mile. The Firestone service area has more than 17,000 people per square mile; Santa Clarita Valley has 210 per square mile. Lennox has 14,000 people per square mile; La Crescenta/Altadena has 303 persons per square mile.

The population served by the LASD is highly diverse. The racial and ethnic mix of the populations served by the 19 stations of the Sheriff's Department varies from area to area. The service area of the Malibu/Lost Hills Station, for example, is 87% Caucasian, 1% African-American, and 6% Hispanic. The Firestone Station serves an area that is

## Contract Cities Program Synopsis Fiscal Year 1991-92

Cities	Personnel	1991/92 Billings	% Of Total	Population	Area in Sq. Miles
Agoura Hills	14,2942	1,581,554	1.10	20,390	8.0
Artesia	12,0441	1,241,458	0.87	15,464	1.6
Avalon	5,0358	554,941	0.39	2,918	1.3
Bellflower	32,6274	3,466,251	2.42	61,815	5.2
Bradbury	0,5031	56,548	0.04	829	2.0
Calabasas	17,5062	1,905,280	1.33	21,000	11.1
Carson	61,8588	6,859,926	4.79	83,995	19.2
Cerritos	41,6591	4,296,300	3.00	53,240	8.8
Commerce	34,4499	3,893,825	2.72	12,135	6.5
Cudahy	16,0969	1,800,566	1.26	22,817	1.1
Diamond Bar	34,2670	3,589,777	2.50	53,672	14.8
Duarte	17,8949	1,816,993	1.27	20,688	6.6
Hawaiian Gardens	12,7206	1,318,513	0.92	13,639	1.0
Hidden Hills	0,6066	62,613	0.04	1,729	1.7
Industry	27,7830	3,052,802	2.13	631	11.7
La Canada Flintridge	14,0044	1,472,669	1.03	19,378	8.6
La Habra Heights	4,8980	544,019	0.38	6,226	6.4
Lakewood	33,1303	3,560,135	2.48	73,557	9.6
La Mirada	29,2880	3,158,675	2.20	40,452	7.8
Lancaster	76,7399	8,084,868	5.64	97,291	88.4
La Puente	31,7855	3,415,530	2.38	36,955	3.5
Lawndale	24,4969	2,502,542	1.75	27,331	1.9
Lomita	13,2685	1,391,462	0.97	19,382	1.9
Long Beach	52,5140	5,528,874	3.86	429,433*	49.7*
Lynwood	41,9576	4,595,181	3.21	61,945	4.9
Malibu	27,6488	3,024,114	2.11	20,000	20.0
Norwalk	61,3827	6,629,728	4.63	94,279	9.4
Palmdale	52,2723	5,529,895	3.86	68,842	75.2
Paramount	32,2824	3,591,742	2.51	47,669	4.6
Pico Rivera	41,6838	4,476,987	3.12	59,177	8.2
Rancho Palos Verdes	18,4175	2,008,416	1.40	41,659	13.4
Rolling Hills	1,2307	133,790	0.09	1,871	3.0
Rolling Hills Estates	9,3530	1,018,134	0.71	7,789	3.4
Rosemead	37,3986	3,840,602	2.68	51,638	5.0
San Dimas	30,5606	3,172,522	2.21	32,397	15.4
Santa Clarita	77,0973	8,094,203	5.65	110,642	39.6
Santa Fe Springs	34,5419	3,845,580	2.68	15,520	8.7
S.C.R.T.D.	110,5176	11,830,085	8.25	N/A	N/A
South El Monte	25,8303	2,660,156	1.86	20,850	2.8
Temple City	16,9500	1,813,979	1.27	31,100	3.9
Walnut	17,9624	1,758,084	1.23	29,105	8.7
West Hollywood	97,5576	8,949,196	6.24	36,118	2.0
Westlake Village	10,9435	1,197,454	0.84	7,455	5.4
<b>Total</b>	<b>1,355,8616</b>	<b>143,325,971</b>	<b>100.00</b>	<b>1,873,823</b>	<b>513.0</b>

\*Long Beach Includes Entire City Area



2% Caucasian, 17% African-American, and 80% Hispanic. Lynwood Station serves communities that are 33% African-American, 61% Hispanic, and 6% Caucasian or other. East Los Angeles Station serves an area that is 94% Hispanic.

Chart 2 shows the racial and ethnic breakdown of the personnel in each of the Sheriff's stations and the racial and ethnic breakdown of the communities served by the various stations as of December, 1991. As is apparent, there is wide diversity. To the extent that one may generalize, it appears that the Sheriff's Department serves areas in which Hispanics are the largest single minority. As is also apparent from the chart, the racial and ethnic make-up of the area policed does not often correspond to the racial and ethnic make-up of the sworn personnel in the area.

It should also be noted that there is other diversity within the service population, although precise numbers are not available. There are, for example, gays and lesbians throughout the Sheriff's service area with a significant concentration in at least one service area, West Hollywood, where it is estimated that one fifth of the population is gay and lesbian. By way of further example of the great diversity of the population served, the recent census pointed out that in Los Angeles County, only 54.6% of the population speaks English at home. Recent census figures show that 31.5% of the County's population speaks Spanish at home, 8.3% speak an Asian or Pacific language and 5.6% speak a variety of other languages.

The rate of violent crime in the areas served by the LASD is similar to the crime rates in the areas served by the LAPD, and the rates for the LAPD and LASD are eclipsed only by the numbers for New York City. See Chart 3. Charts 4 and 5 detail further the crime rates for the various areas served by the Sheriff. As shown on Chart 4, there is one murder every 21 hours; one forcible rape every 9 hours, one robbery every 49 minutes, one aggravated assault every 21 minutes and one burglary every 18 minutes. There are wide variations in serious crimes rates throughout the service area. Malibu's crime rate is 1.80 per 10,000 persons served; Hawaiian Gardens is 860.03 per 10,000; Rolling Hills is 85.52.

### LASD Station/Policing Ethnic Comparison

Region 1 Ethnic Make-Up	Area Policed	Sworn Personnel	Region 2 Ethnic Make-Up	Area Policed	Sworn Personnel	Region 3 Ethnic Make-Up	Area Policed	Sworn Personnel	County-Wide Units Ethnic Make-Up	Sworn Personnel
<b>Antelope Valley</b>			<b>Carson</b>			<b>Avalon</b>			<b>Aero</b>	
Station (237 employees)			Station (185)			Station (12)			Bureau (29)	
Caucasian	71%	92%	Caucasian	26%	62%	Caucasian	60%	92%	Caucasian	90%
African-American	6%	1%	African-American	25%	15%	African-American	0%	0%	African-American	3%
Hispanic	18%	6%	Hispanic	27%	12%	Hispanic	40%	8%	Hispanic	7%
Asian	0%	0%	Asian	22%	5%	Asian	0%	0%	Asian	0%
Other	5%	1%	Other	0%	0%	Other	0%	0%	Other	0%
<b>Crescenta Valley</b>			<b>Firestone</b>			<b>Industry</b>			<b>Special Enforcement</b>	
Station (135)			Station (119)			Station (191)			Bureau (92)	
Caucasian	61%	87%	Caucasian	2%	70%	Caucasian	29%	76%	Caucasian	80%
African-American	21%	3%	African-American	17%	8%	African-American	2%	6%	African-American	13%
Hispanic	11%	8%	Hispanic	80%	20%	Hispanic	53%	16%	Hispanic	6%
Asian	0%	0%	Asian	0%	2%	Asian	15%	2%	Asian	1%
Other	7%	2%	Other	1%	0%	Other	1%	0%	Other	0%
<b>East Los Angeles</b>			<b>Lennox</b>			<b>Lakewood</b>				
Station (190)			Station (178)			Station (301)				
Caucasian	4%	48%	Caucasian	35%	73%	Caucasian	49%	78%		
African-American	1%	5%	African-American	7%	14%	African-American	5%	5%		
Hispanic	94%	43%	Hispanic	48%	10%	Hispanic	29%	15%		
Asian	0%	0%	Asian	9%	3%	Asian	16%	1%		
Other	0%	4%	Other	1%	0%	Other	1%	1%		
<b>Malibu/Lost Hills</b>			<b>Lomita</b>			<b>Norwalk</b>				
Station (138)			Station (94)			Station (212)				
Caucasian	87%	92%	Caucasian	74%	69%	Caucasian	43%	73%		
African-American	1%	4%	African-American	2%	8%	African-American	2%	1.5%		
Hispanic	6%	2%	Hispanic	8%	15%	Hispanic	46%	24%		
Asian	0%	0%	Asian	16%	8%	Asian	8%	1.5%		
Other	6%	2%	Other	0%	0%	Other	1%	0%		
<b>Santa Clarita Valley</b>			<b>Lynwood</b>			<b>Pico Rivera</b>				
Station (156)			Station (166)			Station (95)				
Caucasian	72%	94%	Caucasian	5%	71%	Caucasian	16%	67%		
African-American	2%	5%	African-American	33%	11%	African-American	5%	2%		
Hispanic	20%	5%	Hispanic	61%	16%	Hispanic	81%	29%		
Asian	0%	0%	Asian	1%	2%	Asian	2%	2%		
Other	6%	5%	Other	0%	0%	Other	5%	0%		
<b>Temple</b>			<b>Marina del Rey</b>			<b>Walnut/San Dimas</b>				
Station (193)			Station (90)			Station (226)				
Caucasian	25%	74%	Caucasian	38%	63%	Caucasian	49%	72%		
African-American	2%	6%	African-American	55%	19%	African-American	5%	8%		
Hispanic	55%	18%	Hispanic	55%	15%	Hispanic	22%	18%		
Asian	0%	0%	Asian	3%	3%	Asian	23%	1%		
Other	18%	2%	Other	0%	0%	Other	1%	1%		
			<b>West Hollywood</b>							
			Station (125)							
			Caucasian	85%	67%					
			African-American	3%	21%					
			Hispanic	9%	9%					
			Asian	3%	3%					
			Other	0%	0%					

The Sheriff's policing operations are conducted at 19 separate stations grouped in three Field Operations Regions. Chart 2 details which stations are in which region.

The station is headed by a captain, who is also known in the Sheriff's Department as a

"unit commander." The captains report to area commanders for the region who in turn report to the division chief for the Region.

The division chiefs report to the assistant sheriffs who in turn report to the Undersheriff who reports to the Sheriff. Importantly, the commander in charge of the Office of Professional and Ethical Standards (OPES), which oversees the Internal Affairs Bureau (IAB)

and the Internal Criminal Investigations Bureau (ICIB), reports directly to the Sheriff.

The Sheriff is an elected public official who serves a four-year term. He has broad powers to preserve the peace and to administer the jails and to serve process. The Sheriff has the power to appoint deputies, and has authority over the discharge and evaluation of deputies subject to Civil Service constraints.

Although the Sheriff has the power to appoint deputies, the Los Angeles County Board of Supervisors has the power to decide the number of deputies and controls the budget for the Sheriff's Department. As will be discussed in detail in those sections of our report dealing with accountability, the Sheriff's Department differs from other large urban police forces by virtue of its independence from direct civilian control through a Police Commission or even a disciplinary process in which civilians are represented.

As also will be discussed, this absence of civilian oversight has serious implications with

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Rate of Violent Crime<sup>1</sup> Since 1960 per 10,000

	1960	1970	1980	1989
United States	160.9	363.5	580.7	663.2
Los Angeles	376.3	737.5	1339.6	1601.1
New York	183.5	980.7	1710.6	2021.2
Chicago	396.1	633.6	585.0	*
Philadelphia	203.1	321.1	637.9	608.5
Houston	230.5	562.4	718.8	801.1
Detroit	309.8	916.8	859.2	*
LASD	372.2 <sup>2</sup>	618.0	1149.0	1365.1

<sup>1</sup> Violent crimes are homicide, rape, robbery, and aggravated assault

<sup>2</sup> Fiscal year 1960-61 data

\* Data not available

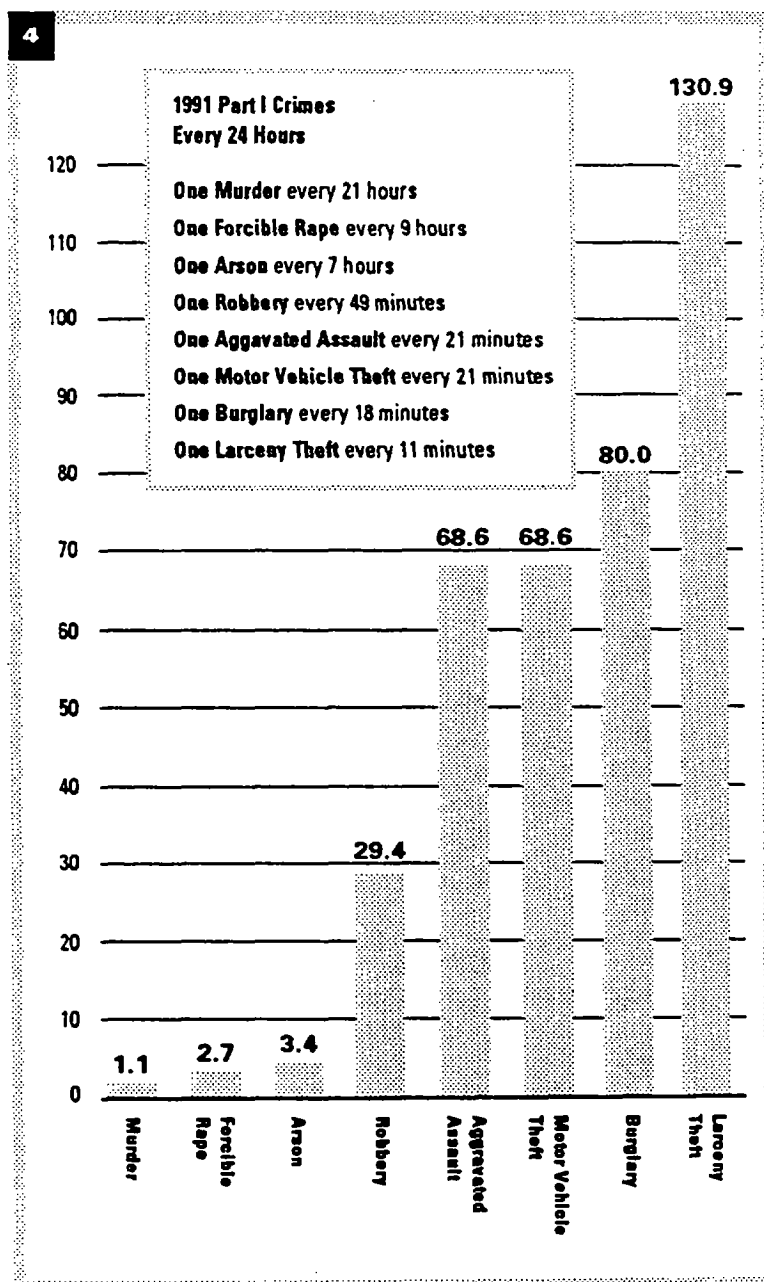
respect to the accountability of the Sheriff's Department.

As of May 1992, there are 91 persons of the rank of captain and higher within the LASD. There is one sheriff, Sherman Block, one undersheriff, Robert Edmonds, two assistant sheriffs, eight division chiefs, 22 commanders and 57 captains. The upper management of the LASD is overwhelmingly male and Caucasian. Of the 91 top officials, 84 are male and 78 are Caucasian. All the division chiefs, the two assistant sheriffs, the undersheriff and the Sheriff are all males. An

African-American male was promoted to the position of assistant sheriff a short while ago. Of the eight division chiefs, all are male. Two are African-American and one is Hispanic. Twenty of the 22 commanders are male. Two of the commanders are African-American. None are Hispanic. Fifty-two of the 57 captains are male and three are African-American, 4 are Hispanic, and 1 is Asian. See Chart 6.

Below the rank of captain, the proportions of women and minorities increase somewhat. Almost 93% of the 310 lieutenants are male and about 85% are Caucasian. Approximately 90% of the 935 sergeants are male and about 85% are Caucasian.

Approximately 93% of the 118 senior deputies are male and 77% are



Caucasian; 87% of the more than 6500 deputies are male and 70% are Caucasian, 9.4% are African-American, 17.9% are Hispanic, 2.2% are Asian. Of the sworn personnel in total, 87.5% are male and 72.4% are Caucasian.

The average age of sworn personnel is mid-thirties. The average age of female sworn personnel is 35; for males it is 36. The average number of years of service for females is 10; for males it is 11. The average age of Caucasian and African-American officers is 37; of Hispanics, 34; and of Asian and Pacific Islanders, 33. The average number of years of service for Caucasians and African-Americans is 11 years; for

**Synopsis - Demographic and Geographic Data**

Station	1991 Area Population Incorp.	Unincorp.	Total Sq. Miles in Station Area	Population Density per Sq. Mile	Part 1 Crime per 1000 Population	Station Complement Sworn	Unsworn
<b>Total</b>	1,429,403	1,032,250	3,182.17	773.58	568.21	3,306	666
<b>Field Operations Region I</b>	512,597	376,259	2,546.03	349.11	452.17	1,113	228
Antelope Valley	166,133	72,564	1,283.58	185.96	482.91	236	46
East Los Angeles	34,952	126,545	15.54	10,392.34	598.40	210	39
Crescenta Valley/Altadena	19,378	63,236	272.67	302.98	327.43	149	29
Malibu/Lost Hills	56,387	19,380	186.26	406.78	409.94	145	2
Santa Clarita	110,642	42,282	725.67	210.73	335.26	164	26
Temple	125,105	52,252	62.31	2,846.36	454.56	209	46
<b>Field Operations Region II</b>	280,090	263,418	81.86	6,639.48	712.04	1,076	220
Carson	83,995	42,498	28.32	4,466.56	741.62	216	29
Firestone	—	71,869	4.17	17,234.77	601.93	141	26
Lennox	27,331	85,040	8.04	13,976.49	728.84	202	35
Lomita	70,701	4,075	22.75	3,286.86	297.82	99	24
Lynwood	61,945	32,778	7.61	12,447.17	769.40	192	3
Marina Del Rey	—	26,028	7.80	3,336.92	839.48	96	7
West Hollywood	36,118	1,130	3.17	11,750.16	1,334.57	130	56
<b>Field Operations Region III</b>	636,716	392,573	554.28	1,856.98	573.53	1,117	218
Avalon	2,918	527	131.23	26.25	879.54	10	7
Industry	43,812	120,239	64.96	2,525.42	647.91	215	32
Lakewood	265,384	90,158	44.00	8,080.50	694.15	318	67
Norwalk	150,251	59,021	40.75	5,135.51	544.12	228	46
Pico Rivera	59,177	25,944	13.04	6,527.68	513.39	104	23
Walnut/San Dimas	115,174	96,684	260.30	813.90	361.75	242	43

### Los Angeles County Sheriff's Department Breakdown of Personnel By Rank, Sex, and Ethnicity

Class	Total	Male	Female	Caucasian	African-American	Hispanic	Native American	Asian	Filipino	Other
Sheriff	1	1 100%		1 100%						
Undersheriff	1	1 100%		1 100%						
Assistant Sheriff	2	2 100%		2 100%						
Chief	8	8 100%		5 62.5%	2 25.0%	1 12.5%				
Commander	22	20 90.9%	2 9.1%	20 90.9%	2 9.1%					
Captain	57	52 91.2%	5 8.8%	49 86.0%	3 5.3%	4 7.0%		1 1.8%		
Lieutenant	310	288 92.9%	22 7.1%	263 84.8%	20 6.5%	24 7.7%		3 1.0%		
Sergeant	935	846 90.5%	89 9.5%	793 84.8%	53 5.7%	77 8.2%	1 0.1%	11 1.2%		
Deputy IV	118	110 93.2%	8 6.8%	91 77.1%	13 11.0%	13 11.0%	0 0.0%	1 0.8%		
Deputy	6523	5656 86.7%	867 13.3%	4555 69.8%	614 9.4%	1168 17.9%	5 0.1%	144 2.2%		37 0.6%
Deputy Trainee	21	17 81.0%	4 19.0%	11 52.4%	3 14.3%	6 28.6%	0 0.0%	1 4.8%		0
<b>Totals:</b>	<b>7998</b>	<b>7061 87.5%</b>	<b>937 12.5%</b>	<b>5791 72.4%</b>	<b>710 8.9%</b>	<b>1,293 16.2%</b>	<b>6 0.1%</b>	<b>161 2.0%</b>	<b>37 0.5%</b>	<b>0 0.0%</b>

Hispanics, 9 years; and for Asian and Pacific Islanders, 8 years.

The LASD has grown substantially over the past several years. There were approximately 5800 budgeted positions for sworn officers in 1980 and 6500 in 1985. Today, there are approximately 8500. Captains and others within the upper echelons of management seem in accord that the dramatic growth of the LASD has brought with it substantial problems.

Another noteworthy change over the last five years has been in the area of budgetary support. It is no secret that all governmental bodies have had to do more with fewer dollars. Although the Sheriff's Department has been an exception and has generally enjoyed increasing budgets, it appears that this may no longer be the case.

Even if its budget is not cut, there is no question but that costs have risen, and what was affordable before is not affordable today. One area in which this phenomenon has seriously and, in the view of captains, detrimentally impacted the LASD has been in the loss of two-person patrol cars. It used to be the case that two deputies would be paired in a single car. The advantages to each of the deputies of the two-person car are obvious: greater

ability to perform the job safely, greater support and better rapport with peers. The halving of personnel assigned to each patrol car also has implications for training: with a two-person car, pairings can be made so as to provide year-round teaching of the junior person. The problem is that the contract cities are reluctant to pay for two-person cars; they would rather see two cars with one deputy each on the street than one car with two deputies.

These and other changes, as well as general conditions in society, have contributed to a state of somewhat eroded morale within the Department. In a survey conducted in 1991, some worrisome trends were noted. Although pride in the Department was generally high and job satisfaction moderately high, 68% of survey respondents felt that the Department did a below average job, and 22% thought the Department did a poor job, in addressing the poor performance of individual officers. Fifty-nine percent of supervisors thought that the Department performed in the below-average range in terms of training them prior to their first supervisory assignment, and 25% said the Department provided no such training at all. Forty-seven percent of the survey respondents rated support from top management in the below average to poor range. Thirty-six percent of sworn personnel felt inadequately trained for their current positions. The promotion process was viewed as less than adequate to poor by 68% of those surveyed; 48% rated the promotion process as unfair; 66% thought it hurt morale; and 64% felt that the most deserving seldom to rarely are promoted.

Perhaps most disturbing from the viewpoint of community relations was the perception that individual officer's tolerance of other racial and ethnic groups has been decreasing. Significant numbers of line employees (31%) and lieutenants (25%) indicated that their tolerance has decreased. Of great concern also was the finding that the decrease was noted to the greatest degree in deputies, detectives and sergeants, all of whom have the greatest contact with the public, and was further localized more often to whites (30%) than to members of other racial or ethnic groups (14%).







### 3. Public Hearings

In order to hear from the greatest number of people across the widest geographical sweep, we determined that we would conduct a hearing in each of the three field operations regions of the Sheriff's Department. In this way, there was an opportunity for individuals from all parts of the County, each of the contract cities, and all the unincorporated areas to attend a hearing in their own LASD region. We held the hearings in public facilities in county parks, we promulgated press releases about the hearings in general and sent out specific releases for each of the individual hearings. We contacted individuals and groups to encourage them to appear and present testimony.

In all, we heard testimony from more than 60 individuals and groups. Many of the groups also gave us written testimony and documentation. Two of the hearings were well attended; a third was not. Much of the testimony was critical of the LASD. This is not surprising: People who are generally satisfied with the police are not necessarily as motivated to come forward and publicly avow this fact as those who believe they have been treated shabbily or disdainfully.

One young African-American in his twenties spoke simply and eloquently about his personal experiences with the LASD:

*"I've been living right across the street from this park for the last 15 years. I've seen this park when it was dirt and all I can say is I love the area out here. . . . My Mom fought hard to bring us out here, bring us up in a nice environment. I love it out here. . . . I choose to be out here where it's nice and safe. The only people I really fear out here is the police and it's a damn shame to be black and fear the police in a nice neighborhood. . . . I'm black. I know I'm black. But as I got older in age the police force out here would pull me over, call me 'nigger' . . . 'What are you doing out here? Where are you from, Compton?' This and that. Sit me on the curb, dirty my clothes. Tear out everything in my car. It got to the point to where I would try to come from my girlfriend's house the back way. I'd get pulled over. They'd be at Dunkin' Donuts. [At other times I would try to] go the front way. They['d] be*

at 7-Eleven. I'd get pulled over. . . . Now the scariest incident I've had was maybe two months ago. To me, it's a crime to be black and to be on the streets of the Lakewood sheriff's department after 11 o'clock. . . . I was thrown to the ground. . . . I don't want to be treated like that. I want to be treated with some respect. . . . Now, the guy takes me, he squeezes my mouth like this. He tells me to open it wide open, wiggle my tongue up and down as he has his flashlight — as he's about to clobber me because I'm not wiggling my tongue fast enough, wide enough or lifting it enough. Now who in the world can do that with their mouth wide open? I'm not used to this type of thing. I asked the officer, 'Why would you have me do something like this? I've never been through anything like this in my life. Why are you doing this to me?' 'Don't worry about it nigger. What are you doing out at this time of night?' 'I'm walking to the store.' 'Well, just have a nice day.' I said, 'Excuse me, officer, what are your names?' 'Don't worry about it.' . . . The scariest times is when they're training a rookie officer. It's always like they have something to prove. This is just one incident out of hundreds that has happened to me while living out here. I'm trying to be a voice for some other people, black people in general, because I can only speak from the experiences that we go through."

An elderly Hispanic woman told us in broken English:

"The police have busted my door three times. I almost got killed. . . . If I would have panicked and run back they would have shot me in the back. They insulted me, telling me that I look disgusting. And then the last time, they did it again. . . . They're calling me 'stupid, dirty Mexican.' . . . [A deputy] had a gun on my back to walk me to the car, two policemen. There was my son, handcuffed. And one with a gun here and a gun over here. That's a lot of harassment. And telling us that we were stupid Mexicans, no good for nothing. So I still can't get over it. I'm still sad. . . . I fear for my life and my son's life. 'Cause that's what they — they even told me, 'Well, Maria, [we'll] be back. We'll see you next time.' And I tell them, 'No, you're not 'cause I'm leaving.'

*And they — the deputy told me, 'Oh, well, we'll find you wherever you go, Maria.' So that's a lot of harassment. So I fear for my life. . . ."*

There was also the testimony of a diminutive African-American gentleman who stated:

*"My home is Birmingham, Alabama. And I came out with my wife and kids to work a construction contract in August of 1990. . . . And for some reason a Firestone sheriff came up behind my car and they asked me — they say, 'Is this your car?' I say, 'Yeah.' They say, 'Where you from?' I said, 'Alabama.' And we — he said something else to me. But anyway, he snatched me out of the car and threw me on the back of the car, and for no reason at all just split my head open with a flashlight. For no reason, no reason whatsoever. And what hurt me so much is that not only did he jump on me, but two more sheriffs pulled up. They jumped out of the car and stomped me and messed up my back. I got a problem with seeing out of my eye now. And I was making \$1300 a week when I got jumped on. . . . Because let me tell you something, they almost killed me. You know, I had left on my lunch break and I ended up in St. Francis Medical Center with my head split open.*

*"But the part that hurt me the most is the guy that was fixing to tow my car. . . . They found out that he had traffic warrants against him. The detective went to this man's house at 12 o'clock at night and told him that if he would say that I hit the deputy in the stomach they would dismiss all his traffic tickets. And you know that bastard dismissed all his traffic tickets just to make me look like I hit him in the stomach first, you know.*

*". . . This committee ain't gonna do nothing until you get those damn bigots out of the Sheriff's Department. 'Cause it's good white people out here. I know good white people. I work for 'em all my life. And all white people ain't low down. But like I said, the ones that jumped on me I never forget it."*

In most cases, it was impossible to verify the factual accuracy of the testimony. But there was an inescapable conclusion: The perception exists within various communities

that racism, discourtesy, excessive force and outright violence by the LASD not only happens, but is commonplace. We do not necessarily agree. Our investigation leads us to believe that nearly all deputies treat nearly all individuals, most of the time, with at least minimally acceptable levels of courtesy and dignity. The exceptions, when they occur, are outrageous enough and frequent enough to poison the well in some communities. The perception becomes the reality. The LASD must understand that one racial slur or incident of unreasonable force reverberates quickly throughout a community and can undermine years of work to build up trust between the LASD and its constituency.

The complaints of citizens fell into two general classifications. We note them here as specific complaints and suggestions. We attempt to address them throughout the balance of this report.

Complaints arise from what persons see as a lack of respect for individuals on the part of law enforcement. For example, on routine traffic stops, the disrespect may be manifested by approaching with drawn guns when there are adult ethnic males in the car, or requiring male individuals to sit on the curb while warrant checks are made, or requiring male individuals to place their hands on the hot hoods of black and white patrol cars or behind their heads during warrant checks. There were many reports of abusive racist language directed at citizens, and, finally, accounts of specific incidents in which individuals were beaten or killed under circumstances which appear to lack justification.

Many people found fault with the complaint system that is in place within the department. Complaints are made at sheriff's stations. In many instances an individual (usually an undocumented alien) will refrain from making a complaint because of fear of arrest and deportation. Where there are language problems, the Department seldom has an interpreter available. We also received accounts of the person accepting these reports requiring the complainant to furnish his name and a social security number at the outset. Before the complaint procedure proceeds, this name is checked for warrants and the complainant may well find himself behind bars, with the complaint still unreported.

The second aspect complained of is that there is no public disclosure as to the result of the complaint. No one outside of the Department is aware of whether any discipline is imposed, and if it is imposed, what it consists of. This final aspect is one of the factors which drives citizens to seek redress in the civil courts, as they feel they have not been able to find any other way to correct wrongs within the system.

Citizens also complained that deputies either failed or refused to identify themselves in confrontational situations. They felt that deputies should be required to distribute cards identifying themselves in all contacts with citizens.

Lastly, speakers felt that the problems between the department and citizens went much farther than street contacts. The consensus was that the attitudes of the deputies on the street was a reflection of attitudes held by their supervisors. In the words of one witness, "to concentrate on deputies and not focus on management is a whitewash."

Building upon these criticisms, several citizens' groups presented suggestions which they felt would produce a more evenhanded justice in this community. Some recommended an independent grand jury to hear excessive force cases convened by the Presiding Judge of the Superior Court. Some urged that an independent prosecutor be appointed pursuant to California Penal Code section 936.5 to handle cases of excessive force. This procedure would be the decision of the Presiding Judge of the Superior Court.

Others suggested taking photographs of injured arrestees at the earliest opportunity. Assumedly, this would be even before transportation to a medical facility.

The hearings proved very useful. They put faces and voices to what we had only seen in documents. The hearings convinced us that the instances of abusive, disrespectful, and even violent behavior by deputies, if not widespread, are nonetheless far too frequent, cause deep sorrow, and produce needless suffering. Such actions must stop.



## 4 . C i v i l L i t i g a t i o n

The Staff's review of verdicts against the County and settlements by the County in civil litigation alleging excessive force by members of the Los Angeles County Sheriff's Department was a crucial part of the examination of excessive force by Department personnel.

The verdicts in this litigation represent findings by an independent trier of fact that the force used was excessive. Although settlements are not admissions of liability, substantial settlements in excessive-force cases are based primarily on an assessment of the likelihood of adverse verdicts. By examining these incidents, and by examining the Department's subsequent investigations of the incidents and the extent of Departmental discipline imposed on the deputies involved, we were able to learn much about the Department's handling of excessive-force issues.

What we learned was the basis for concern. Most of the cases represent clear examples of excessive force. Many involved similar situations and repeat patterns. The fact that little or no discipline was imposed on the Department members responsible for the excessive force in many of the cases suggests that the Department is tolerant of excessive force and that the elimination of excessive force is not a high priority of the Department.

The single most important conclusion we have come to as a result of our review of these cases is that the Department should review all excessive-force settlements and verdicts, past and future, in the same way that we have done, so that the Department can identify the recurring situations creating a high risk of excessive force, train Department members to avoid the use of excessive force in those situations and more effectively discipline those who engage in the use of excessive force.

We reviewed the files of 104 excessive-force cases settled for more than \$20,000<sup>1</sup> between January 1987 and the end of May 1992, and the files of 20 excessive-force cases in which verdicts of more than \$20,000 were entered against the Department between July 1988 and the end of May 1992. These settlements and verdicts totalled \$18,037,789. In addition, we compiled statistical data about 114 settlements and verdicts of \$20,000



or less between January 1989 and May 1992, based on summary memoranda.

#### **Associated Costs of Excessive-Force Litigation**

Although we did not attempt to compile statistics with respect to the total cost to the County of responding to allegations of excessive force in civil litigation, it is clear that the amounts paid as settlements and verdicts constitute only a fraction of the actual costs incurred by the County in connection with this litigation.

In addition to the amount paid out for settlements, the County bore the cost of defending the lawsuits prior to settlement, including the cost of the defense attorneys representing the County.

The County Counsel's office has 8 to 10 attorneys assigned to work on cases for the Department, backed by support personnel. Our review showed that in addition to paying for those employees, the County also paid for contract services of private attorneys hired to handle at least 73 of the 124 cases.

Moreover, in some cases in which punitive damages were sought against individual members of the Department, the County bore the cost of separate counsel to represent those individuals. Other defense costs included court costs, expert witness fees and the cost of private investigators. ←

In less than three and one-half years, from January 1989 to the end of May 1992, the settlements and verdicts in all excessive-force cases against the Department totalled \$15,492,971.85.<sup>2</sup> Some of the verdicts included in this total are being appealed by the County. If these verdicts are upheld on appeal, the total stated for this time period will have amounted to a cost to the County of \$377,877 per month for settlements and verdicts in excessive-force cases against the Department.

The amounts paid as settlements and verdicts constitute only a fraction of the actual cost incurred by the County in connection with excessive-force litigation, because of the high cost of defending these cases.

Approximately 400 members of the Department were named as defendants in the 124 lawsuits which involved settlements and verdicts of more than \$20,000. This number includes many members who were not active participants in the use of force, but were present when it occurred, or subsequently came into contact with the injured party.

Approximately 35 deputies were named as defendants in more than one of these cases. And of these, six were named as defendants in three cases. The files show that these repeat defendants were active participants in the use of excessive force in many of the cases in which they were named. The exact number of repeat defendants could not be determined because the deputies in some cases were not identified by full name or badge number.

Most of the Department personnel alleged in the civil litigation to have used excessive force were deputies. Although higher officers were named in many cases, our review showed that sergeants were active participants in the use of force in seven cases, and lieutenants participated in the use of force in two cases.

Eighteen of the Department's 21 stations were involved in the excessive-force cases reviewed. The Lynwood, Norwalk, Industry, Firestone and East Los Angeles stations each accounted for more of the incidents underlying the 124 lawsuits than any of the other stations. The Lynwood station was involved in 18 incidents, the Norwalk station in 13, Firestone and East Los Angeles stations were each involved in 8 incidents, and the Industry station was involved in 7 incidents.

The excessive-force cases we reviewed included only those cases in which the use of force was alleged to have resulted in personal injury to the plaintiffs. We did not review false-arrest cases, or cases involving a failure to obtain medical treatment for people with pre-existing medical conditions, if these cases did not involve allegations of the use of excessive force. The cases we reviewed fell into two major categories: cases involving shootings by Department members and cases alleging assaults and batteries by Department members.

Shootings accounted for 29 (23%) of the 124 cases we reviewed, 13 deaths and \$8,100,982 of the total amount of settlements and verdicts.

Only 8 of the 29 victims allegedly had deadly weapons when the shootings occurred, and only 3 ever fired a shot. Those three were

The County sometimes also bore the cost of waiving medical expenses incurred by the plaintiffs at County medical facilities as part of settlements, in addition to the amount of cash paid out to the plaintiffs. In more than 10 percent of the cases with settlements or verdicts of more than \$20,000, the County also paid the cost of an arbitration hearing before a settlement was reached.

When verdicts resulted, the costs borne by the County were even higher. In addition to the amount of a verdict rendered against the County, the County was required to pay the plaintiff's court costs. And more significantly, in cases in which a verdict is entered against Department members for violations of the U.S. Civil Rights Act, and damages are awarded, no matter how small, the County may be required to pay the plaintiff's attorneys' fees.

It should be noted that County Counsel statistics on cases taken to trial show that 20 cases alleging force against the Department were won by the County in fiscal year 1988-89, 20 were won in 1989-90, 15 were won in 1990-91 and 13 were won from July-December 1991. However, the defense costs associated with these cases were high even though the County ultimately prevailed. ←

people who fired in apparent self-defense when surprised by armed deputies, and in at least 2 of the cases, the victims did not know that the people firing at them were deputies.

**Punitive damage awards against individual deputies were included in 8 of the 20 cases in which verdicts of more than \$20,000 were entered against the Department. Although not legally obligated to do so, the County usually pays such awards. Of these 8 cases, 3 were settled after trial pursuant to a settlement in which the punitive damages were dropped. Another 3 of the 8 cases are on appeal. Two additional cases were settled after verdicts were entered against the County on liability and before the punitive damage phase of the trials.**

**The cost of civil litigation settlements and verdicts in cases involving allegations of either excessive force or unlawful arrests by the Department in 1985 was \$135,000. In 1991, the cost to the County of settlements or verdicts in excessive-force cases alone had risen to \$4,223,750.**

**The numbers of excessive-force cases on assignment in the County Counsel's office increased from 148 in 1988 to 171 in 1991. If the current rate continues, it will be about 172 in 1992. This increase may be due to a greater frequency of excessive force by Department personnel. But it also is likely that the increase is affected by the public's increased awareness of the litigation process, and the accessibility of plaintiffs' attorneys who specialize in handling force cases. The profitability of excessive-force**

Of the 13 people killed in shootings, 6 were Hispanic, 4 were African-American, 2 were Caucasian and 1 was Asian. Of those shot and injured, 8 were Hispanic, 5 were African-American, 2 were Caucasian and, in one case, the race of the victim was not specified.

In 93 (75%) of the 124 cases reviewed, the force alleged was an assault and battery by Department personnel. Two of these, plus two other cases, involved attacks by the Department's Canine Unit. (The cases involving canine attacks are discussed in Chapter 5.)

These 93 assault and battery cases resulted in settlements and verdicts totalling \$9,861,807.

The cases alleging assaults by Department personnel involved a number of repeat patterns. Many of the cases involved assaults during arrests, and most of those cases involved arrests for minor crimes such as traffic violations. A number of cases arose out of assaults on innocent people mistakenly identified as criminal suspects by Sheriff's deputies or assaults on bystanders at the scenes of crimes committed by others. Several additional cases were based on assaults on party-goers by deputies responding to loud-party complaints by neighbors. A number of other cases involved assaults on inmates in jail.

In some of the assault and battery cases, the plaintiffs were released by Department members after the use of force occurred, without being charged with any crime. Most plaintiffs in the majority of the cases were not charged with any crime other than

those relating to an altercation with Department members, such as obstructing or resisting a peace officer, or battery on a peace officer. Few of these charges ultimately resulted in guilty verdicts against the plaintiffs.

In most of the assault and battery cases, the Department members involved claimed that their use of force was in response to the resistance, threatened assault or actual assault by the injured party. Many of these cases appeared to involve "contempt of cop." The files showed that a verbal altercation arose between a deputy and the injured party, and that this dispute then escalated into a shoving match or other type of physical confrontation. Each side claimed that the other side had started the fight.

The deputies in many of these cases admitted using some force, but denied using as much force as alleged by the plaintiffs. There often were independent witnesses who supported the plaintiffs' versions of the incidents. In several of the cases, the injuries suffered were inconsistent with the stories told by the deputies.

A substantial majority of these cases involved the use by Department members of weapons, such as batons, flashlights or saps. Very few of the victims of the assaults were armed with any weapon in these 93 cases.

Of the 87 cases in which assault and battery victims were identified by race, in 42 cases the victims were Hispanic, in 31 they were Caucasian and in 14 they were African-American. In 6 additional cases, the race of the victims was not specified.

Four of the cases alleging assaults by Sheriff's deputies involved the death of the injured party. The rest of these cases

cases increased in light of the U.S. Supreme Court's ruling in 1989 in *Texas State Teachers Association v. Garland Independent School District*, 489 U.S. 782 (1989). Under the Ninth Circuit's interpretation of this case, victorious plaintiffs are allowed to recover attorneys' fees from defendants, even when the compensatory damages awarded to the plaintiffs are minimal. In these federal cases, the plaintiff's attorney may recover substantial fees in cases involving damages as low as \$1.00. The County's potential liability in these cases could encourage the County to settle a lawsuit for an amount greater than circumstances otherwise would justify.

In cases that do not invoke the U.S. Civil Rights Act, the plaintiff's attorney generally is paid a percentage of the plaintiff's verdict or settlement. So it may not be economically advisable for attorneys to pursue those non-federal cases in which the Department is likely to be found liable, but the injury to the plaintiff was slight and damages likely to be small.

■

involved injuries ranging from life-threatening or serious injuries, including injuries resulting in permanent disabilities, internal injuries requiring surgery, or fractured bones, to less serious but nevertheless traumatic injuries such as head lacerations requiring sutures or psychiatric problems stemming from the unjustified use of force.

Our review of the excessive-force litigation included a review of the results of all investigations done by the Department with respect to the incidents which gave rise to the 124 cases, to the extent records of those investigations were available, and a review of the personnel files of all deputies named in these cases.

Although it was difficult to determine the scope of all investigations because Internal Affairs Bureau files of investigations which occurred before 1986 had been destroyed, we did locate records of IAB investigations of 100 deputies involved in 57 of the incidents that gave rise to the litigation. In these investigations, the allegations were determined to be "founded" with respect to only 22 deputies involved in 18 incidents.

According to the records available to us, only 22 deputies were disciplined at all in connection with the incidents underlying the 124 cases reviewed. The discipline of these 22 deputies included the termination of 6 deputies (3 over one case), the resignation of 1 deputy, both an oral reprimand and a written reprimand to another deputy involved in two separate incidents, and suspensions of 14 deputies amounting to a total of only 123 days.

Many of the cases we reviewed stemmed from arguments between deputies and innocent people who were not engaged in criminal activity. The Department should not be permitted to deny that the deputies used unnecessary force in these incidents simply because the deputies claimed to have been assaulted by the plaintiffs during the arguments, and Department policy allows the use of force under those circumstances. Instead, the Department should train its deputies to prevent arguments from leading to the use of force and to avoid the use of force whenever possible. Juries are likely to award damages in cases involving the use of force on unarmed people whose only misconduct was arguing with a deputy, particularly if the people are outnumbered and out-sized by the

deputies involved.

The kinds of incidents that are repugnant to juries also should be repugnant to the Department.

Because so many of the cases involved repeat patterns, the situations creating a high risk of excessive force are identifiable. The factors present when deputies approach these high-risk situations, such as responding to loud-party calls or engaging in confrontations with bystanders at the scenes of arrests, are predictable. The Department should focus its energies on determining how to train its deputies to avoid the recurrence of the types of excessive force presented in these cases, how better to investigate allegations of excessive force and to discipline more effectively deputies who use excessive force.

The approximately 400 Department members who were named as defendants in the 124 excessive-force cases reviewed, which arose out of incidents from 1979 to 1990, constitute only a small percentage of the total number of deputies employed during that period. The fact that the deputies and officers named in the litigation represent a small percentage of those employed by the Department suggests that most members of the Department perform their jobs without using excessive force.

However, the cases reviewed may be merely the tip of the iceberg with respect to the use of excessive force by Department members. Most of the 124 cases we reviewed constitute clear examples of excessive force. The cases resulted in large settlements and verdicts primarily because they involved a combination of sympathetic plaintiffs, severe injuries and witnesses who supported the

#### **Settlements and Verdicts of \$20,000 or Less**

Between January 1989 and May 1992, according to memoranda supplied by the County Counsel's office, the County settled 108 excessive force cases for up to \$20,000 each, for a total of \$966,376.85. In addition, during the same period, plaintiffs in at least six cases obtained verdicts under \$20,000 each, for a total of \$41,388. While the verdicts were too few to indicate any statistical trends, the number and dollar amounts of the settlements for up to \$20,000 have increased over time. For example, in all of 1990 the County settled 19 of these cases for a total of \$186,610. In just the first five months of 1992, the County settled at least 20 such cases for at least \$217,995.

Notwithstanding the relatively low settlement and verdict amounts in these cases, the injuries suffered by the force victims were sometimes quite severe. At least 10 of these cases involved shooting victims, including 4 who were killed. Except for a couple of canine incidents, the plaintiffs in the remainder of the cases alleged some form of assault and battery. In many other cases, the physical injuries were relatively minor, or merely incidental to emotional distress or civil rights violations. Nevertheless, in at least 34 of these cases the plaintiffs

complained of blows to the head or face, and in 11 others they suffered broken bones and/or other injuries requiring surgery.

The situations in which these incidents occurred were similar to those in the cases that resulted in settlements and judgments of more than \$20,000. The plaintiffs included alleged traffic violators, drug users and persons drunk in public, as well as innocent bystanders and people who were mistaken for criminal suspects or whose homes were wrongfully searched. Several of the incidents occurred when deputies responded to fight or disturbance-calls, and others involved altercations at a Sheriff's station, in jail, or at the jail ward of the County medical center. Almost all of the victims were unarmed.

In other cases it appears that the County successfully negotiated settlements for less than it had to pay in other cases involving similar facts. Some plaintiffs in these cases may have settled for small amounts because they could not prove serious injuries, or because their physical injuries were not their chief complaint about deputies' actions.

plaintiffs' versions of the facts. They represent the "best" cases in terms of the ease with which the plaintiffs were able to prove their cases. The number of complaints made against the Department greatly exceeds the number of cases that end in substantial settlements or verdicts, yet the allegations of force made by injured parties who register complaints against the Department are often very similar to the allegations made in these cases. The question arises as to how often excessive force is being used against people who are guilty of a crime and are, therefore, less sympathetic plaintiffs, or against people outside the presence of witnesses so that the credibility contest tips in favor of the deputies.

### *Types of Force*

The allegations of excessive force made in the litigation we reviewed fall into two major categories: shootings and assaults and batteries. Each of the categories of cases is discussed in more detail below.

#### **Shootings**

*After almost colliding with a Sheriff's Department vehicle, a young man led several patrol cars and a helicopter on a long chase in the early-morning hours of March 8, 1988. He drove through darkened city streets and the backyard of a house, wound up in a warehouse district and came to a stop before a fence on a dead-end road.*

*He did not raise his arms, and he did not climb out of the car. He did not raise a weapon. Instead, in a quick series of events, the man jammed the car into reverse, spinning the wheels, and banged into a*

*patrol car that had pulled up behind. A deputy, with gun drawn, rapped on the driver's window and jumped back when he saw the youth move suddenly.*

*Two deputies opened fire and others followed suit. Three deputies and a sergeant fired a total of 17 rounds, killing the youth who turned out to be unarmed. In a settlement, his parents were awarded \$1 million.*

*A Lynwood station deputy decided to check into the activities of Hispanic men outside a bar. He and his partner approached three men in the parking lot, one of whom he said raised a gun. Fearing that the man would turn and shoot, the deputy fired six rounds and killed him. One of the victim's companions said he never saw the victim holding a gun, and there was no indication that the weapon at the scene was checked for fingerprints. The County settled for \$60,000.*

*Three weeks later, with a new partner, the same deputy drove past the bar and stopped a Hispanic man who was crossing the street. He ordered him to remove his hand from his jacket pocket, and in doing so, the man revealed the butt of a gun. The deputy said he reached out his car window to take it and the man grabbed his wrist with both hands. The man said he raised his hands on top of the car and a witness standing across the street corroborated this. In fact, the witness' version of events was substantially similar to the man's. In any event, the gun discharged from within the man's pocket and the man fell to the ground.*

*The man alleged that the deputy made racial and profane remarks and told him he was going to die, statements the deputy denied making. The man's medical bills reached \$7,000 and the County paid out \$50,000 as a result of this incident. This was the second of three shootings the deputy would be involved in before the County settled this case in 1991. As of June, the deputy was working as a gang investigator in the Safe Streets program.*

*After spending several hours in a bar, an off-duty sergeant chased some men he saw tampering with a car until he lost sight of them. Then, upon seeing what he thought were the*



*same three men in a car pulling out of a gas station, he fired, because he said he thought one of them had a gun. The person he shot at was an innocent African-American man who had just purchased gas. He was not hit and his injuries were limited to psychological trauma. The incident cost the County \$50,000.*

Generally, the victims in the 29 shooting cases we reviewed (13 of whom were killed) were not engaged in violent criminal activity when they were shot. Some of the victims in these shooting cases were completely innocent of any wrongdoing. Only 8 victims allegedly had deadly weapons at the time of the shootings, and only 3 of these ever fired a shot. Moreover, 2 of the latter 3 victims fired at deputies who suddenly entered their homes during early-morning raids, and the third victim fired in the dark when a deputy suddenly yelled "freeze."

Few of the shootings appear to have been caused by the deputies' malice or personal anger. Some of the shootings were accidental and others resulted from the deputies' misperception that they were threatened. The deputies often seemed to have created dangerous situations, whether by negligence, overreaction or simply bad decision making.

Four victims in the cases we reviewed were shot unintentionally, including two innocent bystanders, a robbery victim and a suspect shot when a deputy's gun accidentally went off as the deputy reached for the radio. A fifth was shot when he was misidentified as a suspect. Two unarmed victims were shot in their cars when they bent down and deputies reportedly feared they were reaching for weapons. Two others were shot when they reached for "weapons;" one was shot holding a B-B gun and the other was shot when he reached for a large toy gun. Other unarmed victims who made "threatening movements" included a 16-year-old motorist who exited his truck, allegedly bent over in a crouch and quickly spun around toward the deputy, and one who said he was shot when he tripped and stumbled toward a deputy who already had shot at the man's partner

following the theft of a six-pack of beer.

The plaintiffs in the shooting cases obtained settlements and judgments totalling \$8,100,982.

### **Assaults and Batteries**

The 93 excessive-force cases reviewed involving allegations of assaults and batteries by Department personnel fell into the following categories of repeat patterns: (1) assaults by deputies on innocent people mistakenly identified as criminal suspects, (2) similar assaults on innocent bystanders and passengers in vehicles stopped by deputies, (3) assaults on party-goers by deputies responding to "loud-party calls," (4) assaults on suspects during arrests for minor crimes such as traffic violations, (5) assaults during arrests for more serious charges such as drug sales, (6) assaults on inmates in jail and (7) canine attacks. (Cases involving canine attacks are discussed in Chapter 5.)

In some of the assault and battery cases, the plaintiffs were released after the use of force, without being charged with any crime. Most plaintiffs in the majority of the cases were charged only with crimes relating to an altercation with Department members, such as obstructing or resisting a peace officer (Penal Code Section 148), or assault or battery on a peace officer (P.C. Sections 243(b) or 245 (c)). Several plaintiffs were also charged with minor crimes related to the incident, such as disturbing the peace or fighting in public (P.C. Section 415), unlawful assembly (P.C. Section 408) or disorderly conduct ( P.C. Section 647). A minority of these charges ultimately resulted in guilty verdicts against the plaintiffs. In some cases, the plaintiffs were released after the use of force occurred and were not charged with any crime.

In most of these cases, the Department members involved claimed that their use of force was in response to the resistance, threatened assault or actual assault by the injured party. In many of these cases, a verbal dispute arose between a deputy and the injured party, and then escalated into a shoving match or other type of physical confrontation.

The deputies' report of an incident that occurred the evening of Mother's Day 1984 bore little resemblance to the plaintiff's description of what happened that night. The incident began when deputies saw a teenage boy driving a truck without headlights just before he parked in front of a home on a Lomita street. The boy was coming from a picnic he had attended with the owners of the home, and the owners were parking their car in their driveway just as the deputies approached the teenager in front of the house.

The 42-year-old man who owned the home wanted to vouch for his teenage friend, and he walked up to a deputy and asked him what was happening. The deputy described his answer as: "I asked [the man] to step up onto the curb and I would explain my actions after I completed my business with the driver." However, the man claimed that the deputy said, "Get the hell in your house."

The man said that he then "told [the deputy] I wished to observe what was happening." But the deputy stated that the man's response was "Fuck you, I don't have to listen to you."

Because the man refused to step up on the curb, and then refused to put his hands on the hood of the deputy's car, as ordered by the deputy, he was arrested. As the deputy escorted him to the car, he saw that a large crowd had gathered. ←

Each side claimed that the other side had started the fight. The plaintiffs and the deputies often claimed that the other party had made profane or obscene comments.

In several cases, the deputies attempted to arrest the plaintiffs simply because they refused to follow the deputies' orders to move away or to put their hands on the hood of the deputies' car. In these cases, the excessive force was used when the plaintiffs resisted their arrests or when friends or family members tried to intervene.

The deputies in many of the cases outnumbered and out-sized the injured parties. In many cases, the deputies admitted using some force, but denied using as much force as alleged by the plaintiffs. In several of the cases, the injuries suffered were inconsistent with the stories told by the deputies. There were often independent witnesses who supported the plaintiffs' versions of the incidents and called into question the deputies' accounts of the incidents.

A substantial majority of the 93 cases involved the use of weapons by Department members. Baton strikes were alleged in 24 of the cases, blows with flashlights were alleged in 18 of the cases, and the use of a sap was alleged in 4 cases. Seventeen additional cases involved allegations that a combination of these weapons was used.

In 16 of the cases, the injuries were alleged to be the result of fist blows or kicks or a combination of both. The allegations of fist blows or kicks also were made in many of the cases involving the use of batons, flashlights or saps. In 5 cases, the plaintiffs' injuries were alleged to be primarily the result of Department personnel shoving them against a hard surface, such as the pavement or a wall.

Allegations of injuries caused primarily by restraining holds were involved in 3 cases. A frequent complaint was the alleged use of force after a suspect had been handcuffed or otherwise restrained.

Very few of the victims of the assaults in any of these 93 cases were armed with any weapons. The only exceptions included a beer bottle that an 18-year-old was allegedly about to throw at a deputy 20 feet away at the time he was hit in the mouth with a baton by a sergeant, and a flashlight picked up by a man in a house invaded by deputies attempting to disperse a loud party.

Four cases involved the deaths of the victims of the assaults, and 50 of the 93 cases involved what could be defined as serious injuries, including those resulting in permanent disability, internal injuries requiring surgery, and fractures to skulls, vertebrae, arms, legs, shoulders, ribs, jaws and noses. The remaining 39 cases involved injuries including the knocking out of front or side teeth by blows to the head; lacerations requiring sutures, often to the head; bruised ribs; sprains; jaw displacement resulting in dysfunctions; contusions, sometimes over many different areas of the body; neck and back injuries requiring ongoing therapy; and psychiatric problems stemming from the use of force.

The 93 assault and battery cases resulted in settlements and verdicts totalling \$9,861,807.

Each of the repeat patterns appearing in these cases is discussed in more detail below.

**Because of what the deputy described as the man's hostile actions and those of the crowd, he requested back-up.**

**Deputies arrested the man's wife when she tried to intervene. As deputies used a restraining hold on her, she screamed in pain, apparently due to aggravation of a chronic back injury. The couple's 13-year-old daughter heard her and cried, "Mommy, Mommy," as she ran toward the scene. Witnesses reported that a deputy hit the girl in the face with a "roundhouse" punch. The deputy denied hitting her at all, but her face was badly bruised and her jaw was injured.**

**The County settled this case for \$39,900. None of the deputies involved were disciplined by the Department.**

■

## **Innocent People Mistakenly Identified as Suspects**

*A small (120-pound), mentally retarded man suddenly came into contact with deputies one evening in May 1985 when he went out behind his apartment building to empty the trash. He became confused when a patrol car pulled up and one deputy beckoned to him. According to him, the deputies called out, "Are you doing dope, son of a bitch?" He became afraid when they ordered him to get into the car and resisted their efforts to control him.*

*During the course of the struggle that ensued, the man suffered head lacerations requiring stitches, back and leg injuries and emotional distress.*

*Neighbors were angry because they said deputies left the young man down and cuffed even after they had been told the man was retarded and not a part of any drug activity in the area.*

*The ordeal cost the County a \$60,000 settlement.*

*A 29-year-old carpenter was at work one September afternoon in 1985 in a residence in Compton when he became the victim of a case of mistaken identity. Unbeknownst to him, a deputy was in pursuit of a reported stolen car, which was abandoned outside the residence. Another deputy responding to the scene chased one of three suspects inside where the carpenter was working.*

*Confronting both the suspect and the carpenter at gunpoint, the deputy ordered them to the ground. The suspect went prone. The carpenter did not.*

*He protested his innocence but to no avail. The deputy was joined by another deputy in applying force to the carpenter, who described it as being threatened, cuffed, cursed, thrown to the ground, kicked, beaten, insulted and otherwise treated in an inhumane, rude, violent and insolent manner without explanation or justification. The carpenter suffered internal injuries and required surgery and brief hospitalization and had \$13,500 in medical bills.*

*The County settled the matter in 1988 for \$55,500. Several months after the settlement, the deputy who had confronted the carpenter shot and killed a man in an incident that*

*resulted in a \$560,300 verdict against the County. He is currently a supervising line deputy at a county custodial facility.*

*A deputy mistook a middle-aged woman for a robbery suspect in a 1989 incident. The small African-American woman was an employee in Universal City, who had stayed late one night after work. She was completing a telephone call to her son for a ride home when her troubles began.*

*A car's headlights blinded her, and a 200-pound deputy jumped from the driver's seat. The woman said she was unaware he was a deputy and panicked when she saw a "white face" running at her. She said she thought she was going to be mugged so she took off, yelling for the police.*

*The deputy was responding to a call about a car burglary in which a black bag was reported missing. He saw the woman standing with a black bag near the scene of the reported burglary. He said he identified himself, asked her to come to the car, and she said she would. But when she dropped her bag, he became more suspicious and as she ran, he chased her. He said she tripped; she said she was pushed down. Either way, the 200-pound deputy landed on top of her as she screamed and continued shouting for help. After the deputy checked her bag and determined it was hers, not stolen, he released her.*

*The incident cost the County a \$47,500 settlement.*

We reviewed 12 cases of "mistaken identity," in which innocent people were detained and injured. The injuries suffered by those people included a seriously broken arm, broken shoulder, broken jaw, broken foot, dislocated knee, neck and back sprain, and broken

The curiosity of a young man in Lakewood brought him into contact with Sheriff's deputies. His fear of them got him into trouble.

While walking to a friend's house, the man had seen a patrol car pursuing another car and then heard a crash. He looked inside the crashed car to see if someone had been hurt, and seeing no one, left to go about his business. It was then that deputies caught up with him and wanted to take him back to the car.

The young man objected, explaining that he had just happened by, but deputies insisted and a struggle resulted. Back-up deputies arrived and in the course of an altercation, the man's arm was broken. In his case, his resistance stemmed from fear and uncertainty, not guilt.

When questioned as to why he hadn't cooperated, the man said, "...I started to get scared because I - I just didn't know exactly what they were going to do... I had heard in high school that sometimes they get a little rough with some people. And I didn't know for sure what was going to happen."

He said he had heard "just rumors and innuendoes about Lakewood sheriffs and things of that nature" and "that they were overly aggressive sometimes and putting people in cars and taking them for a ride and taking them back to their car, things of that nature. I did not know if this was true or not true."

His case was settled for \$25,000.

teeth, bruises, cuts, head lacerations requiring stitches, internal injuries, dog bites and fractured ribs and fingers. At least six people suffered head injuries.

These cases were not simple occasions when a person was stopped, questioned and released after any misunderstanding was cleared up. Instead, initial confrontations escalated to the alleged use of excessive force by dozens of deputies and resulted in County payouts totalling \$1,073,000.

It may be assumed that innocent people would behave in such a way as to make it obvious to deputies that they have the wrong person. But these cases suggest otherwise. The innocent people here exhibited both fear of the deputies and outrage over their treatment. Many refused to cooperate, incensed, apparently, that they were being "treated as criminals." Others resisted the deputies because they were afraid of being hurt.

Because these cases all involved incidents in which the injured parties were ultimately shown to have been completely innocent, the cases serve as vivid reminders of the importance of avoiding the use of force in all cases, unless it is clearly justified.

### **Bystanders and Passengers**

*After a graduation party for a young man one evening in 1986, one of the guests crashed her vehicle into a parked car. A crowd gathered at the scene, including the motorist's brother and the guest of honor, and many other party guests.*

*The motorist's brother saw that she was upset and crying, and he approached her to try to comfort her. The deputies at the scene ordered him to leave. The brother said that he was following the deputies' orders to leave the scene when he was grabbed from behind, dragged 30 feet, slammed with his back against a car, turned around and slammed face first against the car and knocked unconscious. He was told by witnesses that he was later hit in the stomach with a baton. The deputies said that he refused to leave and struck first, and then they pushed him against the car, took him to the ground and handcuffed him. In any event, he suffered injuries, including a broken nose.*

*Meanwhile, the guest of honor saw that his father and sister had been arrested, after they allegedly interfered with the paramedics at the accident scene. He approached the deputies and protested his family's arrests but to no avail. He and the deputies disagreed as to whether he played "peacemaker" or "troublemaker."*

*He left the scene but later returned as the altercation with the motorist's brother occurred. He said that he simply walked toward the altercation, but the deputies said that he ran at a deputy. He claimed that he was then struck by a baton on his head, fell to the ground and was struck several more times on the head as he covered it with his hands. His injuries included lacerations to his head and hand, and a broken finger.*

*The deputies claimed that he injured his head as he tumbled forward after two deputies grabbed him. However, the injuries were consistent with the injured party's description of the incident, and the witnesses, including some who were not party guests, supported the accounts of both the brother and the guest of honor. The County paid \$72,500 in a settlement of the case arising out of this incident.*

The assault and battery plaintiffs in 13 cases were "bystanders," that is, they were not the suspects that the deputies originally sought to detain or arrest, but they were present at the scene and eventually became involved in altercations with the deputies. Some of the plaintiffs were family members or friends of a detainee who questioned, protested or otherwise interfered with the detention. Others were passengers of drivers who were pulled over for traffic violations.

None of these plaintiffs was armed nor were any suspected of criminal acts before their altercations with the deputies. Their injuries included head lacerations, broken bones, ruptured disks and nerve damage. The County paid a total of \$1,396,900 in these cases.

The cases in which passengers in vehicles stopped by deputies became embroiled in physical altercations with the deputies often, although not always, involved passengers who were under the influence of alcohol. At the time of the stop, the passengers were not guilty



of any crime, but their alcohol consumption probably contributed to the altercations.

Some of the incidents involving bystanders stemmed from the problems related to crowd control, and the protective instincts of family members towards relatives. The deputies were engaged in trying to question, detain or arrest individuals in the presence of their friends and/or families. While the deputies probably wanted to deal with as few people as necessary, concerned onlookers wanted explanations and tried to vouch for the innocence of the people being arrested. The plaintiffs included a 13-year-old girl, who was met with a "roundhouse" punch to the face when she saw deputies arresting her parents, and a 73-year-old woman dying of brain cancer, who was injured when she allegedly interfered with the apprehension of relatives suspected of participating in a fight in a bar.

In other cases the plaintiffs did not have a personal connection to a suspect but ended up in altercations with deputies because they apparently were at the wrong place at the wrong time and became involved in a verbal dispute with deputies.

*One evening in 1983 a husband and wife in their fifties left a bar and were detained by two deputies who were responding to a silent alarm at the bar.*

*According to a witness, the husband asked a male deputy why he was detaining them. The witness stated that the deputy told the husband to get his "fucking hands" on the patrol car and to tell that "bitch" to do the same. The husband alleged that after he protested the use of foul language, the deputy hit him 10 times with his baton, including several blows to the head. The deputies claimed that the husband was obstructive and refused to cooperate.*

*The husband reported that a female deputy then hit him about six times in the head with her sap. Trying to protect her husband, who had a heart condition, the wife then jumped on her husband's back to cover him, and she was struck several times on her back with a baton. The husband claimed that after he was handcuffed the female deputy punched him in the face three times. As a result of the incident, the husband suffered multiple contusions and abrasions, and the wife's prior back problems were aggravated. The County paid \$70,000 for this incident.*

## **Loud-Party Calls**

*Attempts by deputies to break up a "quinceanera" birthday celebration hosted by the birthday girl's sister and brother-in-law in early 1985 resulted in the filing of a lawsuit by 20 party-goers, including 7 minors, who claimed injuries ranging from sprains, bruises, ligament damage and chipped teeth to a miscarriage. The plaintiffs' medical bills came to nearly \$20,000.*

*The first deputies to arrive at the home where some 50 people were celebrating at 12:45 a.m. were responding to a third complaint by neighbors. The first two had been resolved without incident. The responding deputies, Deputy A and Deputy B, walked into the backyard without seeking permission and, according to plaintiffs, announced that the party was over and ordered guests to leave. The party-goers alleged that when the host protested, he was thrown to the ground and handcuffed.*

*The deputies reported that the party-goers began to shout and scream at them, so they requested backup and 13 deputies responded. The plaintiffs claimed that when the party-goers did not leave as quickly as he wished, Deputy A began pulling them out of the house. The plaintiffs also claimed that he seized the host's 27-year-old nephew, hit him with a baton and grabbed a 25-year-old woman. When the woman's husband tried to pull her back, Deputy A hit him on the head with a baton and in the eye with a sap, according to the plaintiffs. A neighbor who was watching from inside his house reported that he saw this man being taken outside and beaten and kicked by several other deputies. The host's wife claimed she was held by the neck and put in an armlock by deputies. Others claimed similar handling and injuries.*

*For his part, Deputy A claimed there was a fight going on between two guests and that someone jumped him when he tried to break it up. Deputy A and Deputy B alleged that the situation looked like a gang fight and required quick action.*

*The adult plaintiffs were all young parents with small children, all employed and had no prior arrest records. A neighbor reported that the couple who hosted the party were quiet neigh-*

*bors who rarely gave parties.*

*Six of the plaintiffs were arrested for disturbing the peace, failure to disperse, resisting or obstructing a peace officer, and battery on a peace officer. Charges against one of the plaintiffs were never filed by the District Attorney, and all charges against the others were dismissed at trial for lack of evidence.*

*Most of the plaintiffs' allegations of force were against Deputy A, who has since left the force. The Department had received several prior citizens' complaints of similar actions by Deputy A, all of which had been found to be "unsubstantiated." Some involved allegations of excessive force and racial remarks by Deputy A, who was Caucasian, against Hispanics. Eight of the other deputies named as defendants also had received prior citizens' complaints for excessive force.*

*An IAB investigation into the incident was closed because the plaintiffs' criminal defense attorney would not allow his clients to be interviewed. IAB recommended that no further action be taken against any of the deputies involved.*

*The County paid \$225,000 to settle the case.*

The County paid out \$1,252,009 in verdicts and settlements arising from 12 cases alleging the use of excessive force during incidents involving deputies responding to "loud-party" calls. In addition the County paid another \$925,000 to settle a case about an incident that occurred after a party had ended and involved injuries inflicted by deputies on a man they had come into contact with earlier during their response to a complaint about a loud party he was attending.

The injuries suffered by the plaintiffs in these cases included a fractured elbow and nose, chipped teeth, face, head and skin lacerations, neurological damage, aggravation of a pre-existing heart condition, bruises and sprains in the back, shoulder, knee, face, chest, wrists and groin, miscarriages and one death caused by a blood clot resulting from a broken hip.

These cases involved very similar facts. The incidents almost always took place in private residences, and the plaintiffs in many cases indicated their resentment about the deputies' intrusion into their homes.

Many of the cases involved family celebrations that included two or three generations of family members, so that young children and middle-age or older people were present. The plaintiffs in several of these cases included women and children. The celebrations dispersed by deputies included birthday parties, a wedding reception and a baptism. Other parties were gatherings of teenagers or young adults simply out to have a good time.

The plaintiffs in these cases were not "criminals," and none was armed with any weapon during the conflicts with deputies with the exception of one man who was holding a flashlight. The charges filed against the plaintiffs in these cases were limited to charges arising out of their interaction with deputies (resisting or obstructing a peace officer, or assault or battery on a peace officer) or charges related to their conduct at the parties (disturbing the peace, failure to disperse, or disorderly conduct). In most of these cases the charges against the plaintiffs were dismissed or the plaintiffs were acquitted of all charges after a trial.

These cases all took place at night, and all involved crowds of people, although the size of the crowds varied. Many of the party-goers were, to some extent, under the influence of alcohol.

The cases involved crowd-control problems and problems related to the intervention by protective family members similar to those involved in the bystander cases. In some cases, there were between 10 to 20 deputies present, so there were "crowds" on both sides. The party-goers tended to rush to the assistance of anyone involved in a dispute with the deputies, and the deputies of course rushed to control anyone who appeared to be a physical threat to a deputy.

The perspectives of the party-goers and the deputies were predictably different in these cases. The party-goers could have reasonably felt that they were innocently enjoying a

social or family gathering, drinking and celebrating. In contrast, the deputies could have reasonably seen themselves as facing a potentially hostile crowd of people under the influence of alcohol. In most of the cases the complaints by neighbors were limited to complaints about noise, but in some cases the neighbors also complained that party-goers were blocking driveways with cars, throwing bottles or causing other disturbances.

There were witnesses to the use of force in each of these cases. Because of the likelihood of the presence of witnesses at incidents involving parties and the fact that a person injured by deputies during a party at a private residence may be a particularly sympathetic plaintiff, the risk of civil liability is high if excessive force is used.

The similar fact patterns present in these cases suggest that the incidents were predictable, and could have been avoided.

### **Suspects Arrested for Minor Crimes**

*On the night of August 17, 1981, a man and his girlfriend had a long, loud argument. The man was intoxicated and repeatedly telephoned the local Sheriff's station for assistance. Finally, after deciding that the man was unlawfully tying up emergency telephone lines, station personnel sent two deputies to his home.*

*The deputies entered through the open door of the second-floor apartment and encountered the drunk man. As the girlfriend watched, the deputies pushed the man out into the hallway and shoved him face first into a wall. They handcuffed him and he asked them why they were arresting him. The larger deputy, who reportedly stood 6 feet, 3 inches tall and weighed 250 to 300 pounds, then punched the man twice in the cheek, causing him to bounce off of the wall and fall to the floor.*

*Despite having already restrained the man, the large deputy sat on the handcuffed man and repeatedly hit him on the back of the head with a flashlight, according to the girlfriend. The man moaned and temporarily lost consciousness. He came to as the deputies brought him to his feet and dragged him down the hall and down the stairs. The man claimed that*

*the deputies used his head to ram open the door at the bottom of the stairs. After the deputies took him to two hospitals, they released him.*

*A couple of days after the incident, the girlfriend took the man back to the hospital. He spent the next week in the intensive care unit and another month in a hospital room. The doctors found that he suffered a fractured skull and brain hemorrhaging. Seven months later, he had the first of several seizures that recurred for the next few years.*

*The large deputy insisted that the man instigated the struggle. He did admit that he punched the man twice in the face. However, his explanation for the three 3 1/2-inch lacerations at the back of the man's head was that the man struck his head on the wall and floor in the hallway as a result of the punches. The deputy added that the man continued to resist by punching and kicking.*

*The County paid \$325,000 to settle the man's lawsuit. As of May 1992, the large deputy was still with the Department.*

*On March 25, 1985, an intoxicated African-American man was walking on a South Los Angeles street at night, shouting obscenities. Deputies suspected that he was under the influence of PCP, but this suspicion was not substantiated. They attempted to apprehend the man and an altercation ensued. A crowd gathered and watched.*

*Witnesses alleged that the deputies called the onlookers "niggers," and that four deputies beat the handcuffed man with flashlights and batons and kicked him as he lay defenseless on the ground. The deputies' own arrest report acknowledged that three deputies administered 20 to 30 blows, which they claimed were necessary to overcome the man's resistance. The man suffered bruised ribs and lacerations to his face and arms, and the County settled his lawsuit for \$50,000.*

We reviewed 30 cases based on injuries occurring in the course of arrest or detention for "minor" crimes such as traffic violations, disturbing the peace or public drunkenness. The plaintiffs in these cases obtained settlements and judgments totalling \$3,127,898.

A combination of drunken revelry, the obesity of a Sheriff's deputy and "contempt of cop" led to a beating which resulted in the payment of nearly \$1 million to compensate a 25-year-old man for an "exploded" testicle, his friend for ruptured discs in his back and his father for additional injuries. It also resulted in the discharge of one deputy involved in the Sept. 30, 1989, incident; however, a second deputy involved in the altercation now works as a field training officer.

The 25-year-old man had attended a party in his apartment complex which resulted in two noise complaints by neighbors during the evening. Two deputies, called here Deputy A and Deputy B, responded to one of those calls and no trouble ensued, but the deputies later said that the 25-year-old man had been drunk, obnoxious and belligerent. At 3:30 a.m., Deputy A and Deputy B responded to a neighbor's complaint that a dozen juveniles were making noise and throwing bottles and garbage. The party was over and they found no juveniles, but they did find the 25-year-old man in the carport holding two beer bottles. The man later said that he had gone to the carport to pick up trash left after the party and to help a friend clean off some egg thrown on her car by party-goers.

The deputies ordered the man to return to his apartment. ←

Injuries included: fractured skulls, ribs, vertebrae, jaw, nose, shoulder, elbow, wrist and leg; concussions, seizures and other neurological damage; a punctured and infected arm; circulation problems in the legs; knee and groin injuries requiring surgery; a perforated eardrum; broken and lost teeth; damage to an artificial foot; aggravation of pre-existing heart and back problems; and contusions, abrasions, swelling and strains all over the body.

There were also two fatalities.

About half of these cases arose from detentions of drivers or pedestrians for traffic violations. In some cases the cause for the detention appeared to be questionable, as in the case of a man stopped for walking in a residential street that had no sidewalk, or to be inadequate, as in a case of a driver who was detained without probable cause for driving under the influence.

*In a 1984 incident, a man with an open container of alcohol in his car, who was on probation after pleading down from driving under the influence to reckless driving, drove erratically and led four Malibu station deputies on a moderate-speed freeway chase from Agoura, across the county line, to Thousand Oaks. The driver became involved in a wrestling match with Deputy A, leading Deputy B to strike him at least six times on the left leg with his baton.*

*The four deputies eventually handcuffed him, but contended that the man's weight and his resistance made it difficult to restrain him. The man claimed that he did not resist and that Deputy B punched him in the head and upper back, but that he then blacked out. He could not explain how his left leg was injured.*

*No one other than the deputies and some California Highway Patrol personnel, who supported their stories, witnessed the altercation. But key evidence in the case was the man's shattered left leg, broken in 10 places, that required bone graft surgery and remained permanently 3/4 of an inch shorter than his right leg. Another factor was the publicity that Deputies A and B had attracted because of other lawsuits against them. The man received a \$500,000 settlement.*

*A federal grand jury recently indicted four deputies on charges stemming from their 1987 beating of a trucker who was sleeping in his truck in a parking lot and their alleged perjury at the trucker's subsequent criminal trial. The trucker settled with the County for \$150,000 for injuries, which included a severe head laceration and circulation problems in his legs.*

*One deputy's extreme actions resulted in a traffic violator's death in 1984. The deputy had stopped the 54-year-old man but could not access computer data to determine whether any outstanding warrants for the driver existed. The deputy said that the man's attitude had been hostile and unpleasant. Subsequently, the deputy learned of a traffic warrant and, several times, left his patrol area and entered another jurisdiction to visit the driver's home and try to "inform" him about the warrant.*

*Approximately two months after the traffic stop, the deputy entered the driver's back door. In the course of a struggle with the 5-foot, 7-inch, 153-pound man, the substantially larger deputy used a sap to strike the man 7 to 10 times in the head, allegedly fearing that the man would grab the deputy's gun. The man's skull was fractured*

He said he was on private property. After an argument, the man walked back to his apartment, but before slamming the door, he turned and said to Deputy A, who was very large and overweight, "Why don't you get a real fucking job, you fat ass?"

Deputy B told Deputy A to arrest him. They admitted that their decision was made in response to his "real job" taunt, although an arrest for public drunkenness required a finding that the young man was unable to care for his own safety.

Deputy A testified he caught the man before he entered his apartment. However, reports from several independent witnesses supported the man's testimony that he was inside when Deputy A banged on his door with his baton and then reached in to pull him out after he opened the door.

A struggle ensued. The man's friend and father, who had not attended the party, were asleep. The man called out to his friend for help and Deputy A claimed the friend hit him. The friend said he merely tried to pull the man away from Deputy A, who hit the friend with his fist and knoed the man in the groin. Deputy A called to Deputy B for assistance, and Deputy B radioed for backup units. Deputy A continued to struggle with the young man and hit him in the groin with a sap while trying to pull him out of the apartment.

Several deputies then helped Deputy A handcuff the man. ←



*in several places and he died 13 hours later. The County paid \$150,000 to the man's family members to settle their lawsuit; the deputy retired two years later on a stress-related disability claim.*

Several witnesses reported that three or four deputies hit the man on the back with batons as he lay on the ground. These witnesses also stated that after most of the other deputies had gone into the apartment, they saw Deputy A repeatedly kick him in the back and legs after he was handcuffed and lying on the ground. No deputy admitted to hitting him on the back with a baton, and Deputy A denied kicking him.

The witnesses were undeniably unbiased and independent. They included the daughter of a Los Angeles police officer, a friend of several sheriff's deputies who hoped to apply to become one himself, and the girlfriend of a deputy not involved in the incident.

Deputy B and several other deputies broke down a bedroom door and subdued the friend after a wrestling match on a bed. Deputy B admitted hitting the friend three times on the side of his chest, but denied making any other baton strikes. Of the other deputies who participated in subduing the friend and the other deputy and two sergeants who witnessed the struggle, none recalled any baton strikes to his back.

The man's father had awakened and wandered out of his room to see what was happening. In their pursuit of the friend, deputies caused him to fall into the bathroom and continued to push him back into the bathroom

Another common situation that spawned several of these lawsuits was the deputies' response to calls about disturbances, including domestic arguments and large street fights. In several of the cases when the deputies responded to disturbance calls, deputies arrived when no physical altercation was taking place, either because it had already ceased or because it was a noisy verbal argument that had never become violent.

*In a 1990 incident that resulted in litigation, two brothers apparently had stopped fighting by the time deputies arrived in response to a disturbance call about a fight. The deputies reported that the brothers made obscene and insulting comments to them that escalated into an altercation in which both brothers sustained head wounds from numerous baton or flashlight blows. The two lead deputies received commendations for their actions, but the resulting lawsuit cost the County \$90,000 to settle.*

Overall, the facts in these cases give the sense that even if the deputies lawfully detained or arrested the suspects, and even if the suspects were drunk, profane and belligerent, the suspects' actions did not warrant the deputies' violent reactions or the resulting injuries. In at least two of these cases, the deputies involved were fired or forced to resign due to their use of excessive force on suspects who were verbally abusive but posed no physical threat.

## Suspects Arrested for More Serious Crimes

*In September, 1988, two brothers, ages 12 and 14, stole a car and led deputies on a high-speed chase after running a stop sign. Six deputies pursued them to a shopping center. The boys said they were ordered out of the car at gunpoint and that they complied with the deputies' orders to lie on the ground. They claimed that they were beaten after they were restrained.*

*The deputies claimed that the boys did not immediately comply but instead fled on foot. In groups of three, the six deputies chased each boy and eventually caught both of them. The deputies stated that the 14-year-old kicked a deputy in the groin, and the 12-year-old also violently resisted. However, one of the deputies involved later said that the boys did not resist as described in the arrest report and that the deputies used excessive force in restraining them.*

*The deputies hit the boys with flashlights and batons. The 14-year-old had 13 well-defined baton marks on his back as well as contusions and lacerations all over his body. In addition, he claimed that he suffered blurry vision, dizzy spells and sporadic memory loss. The deputies insisted that he fell and hit his head on a rail after sustaining flashlight and baton blows. Meanwhile, the 12-year-old had suffered an indentation in his shin, contusions and lacerations to his head, face and limbs, and dislocation of his jaw.*

*This incident cost the County a \$45,000 settlement. Among the deputies involved, one now is a sergeant and another is a training officer who has received nearly a dozen commendations.*

when he tried to leave. The deputies claimed the father disregarded their orders and attempted to block their path to the friend, so he was arrested for interfering with a peace officer under PC 148.

The blows to the man's groin resulted in a fractured testicle that a doctor described as having "exploded." It had to be surgically removed. In addition, the man suffered numerous contusions and welts, including several linear baton-shaped welts on his back, a severe laceration requiring sutures to his leg and emotional problems requiring psychiatric help.

The force used on the friend resulted in ruptured discs in his back which required surgery, and contusions so severe that a witness reported that his entire back and buttocks were black and blue.

The man claimed that although he and his friend were badly injured, Deputy B drove them around aimlessly for a period of time before taking them to a hospital. The examination of the man was excruciatingly painful, yet Deputy B taunted him during the procedure, according to allegations made by the man. Deputy B denied making any obnoxious comment, but an emergency room nurse confirmed that she ordered Deputy B out of the examining room as a result of his remarks to the man. The doctor told Deputy B to take the man to the

Los Angeles County Medical Center, but instead he took him to the station to be transferred later. Deputy B testified that he did this because the doctor did not tell him to take him "immediately."

The man claimed that Deputy B continued to taunt him at the station, calling him a "crybaby." Another deputy reported hearing someone call the man a "crybaby" at the station.

When the father was taken to the station, he was verbally disruptive and continued to complain and question why he had been arrested, according to deputies. A lieutenant escorting the father down the hall pushed him up against the wall while holding his neck. The lieutenant reported that he did this because the father made a sudden movement with his hands. The father testified it was in response to his calling the lieutenant an "asshole."

The father suffered two broken ribs and a broken toe as a result of the incident.

The District Attorney filed no charges against any of the plaintiffs. The DA reviewed the incident but decided not to file criminal charges against any deputies; the Department's IAB investigation resulted in Deputy A's discharge about seven months ago, although he is appealing that decision to the Civil Service Commission.

*In an incident in 1986, several deputies pursued some young men who reportedly vandalized the Sheriff's Academy training field and caught up with two suspects in a truck. According to the deputies one suspect, age 19, exited the truck and kicked one deputy in the groin, pushed a second deputy and attempted to hit a third. Those three deputies, plus a fourth, used force to restrain the suspect, who kicked and swung at them.*

*All four deputies administered at least one blow to the head or face with a flashlight or sap. The suspect's skull, jaw and nose were fractured. The suspect claimed that he was handcuffed when the beating occurred. The County paid \$45,000 to settle the lawsuit arising out of this incident. All four of these deputies were named as defendants in other excessive-force lawsuits. Two of the deputies involved no longer are with the Department.*

In the 12 cases we reviewed in which the plaintiffs based their claims on injuries allegedly suffered in the course of apprehension and arrest for more serious criminal violations, the County paid out a total of \$782,000. In two of the cases, the plaintiffs principally challenged the lawfulness of their arrests and not the force used in executing the arrests. However, in the remaining 10 cases, the arrestees suffered significant injuries, including one man who suffered a heart attack after a struggle to restrain him in a patrol car. In five other cases the plaintiffs suffered broken bones and/or lost teeth.

The worst damage in these cases apparently resulted from

deputies who used far more force than necessary to restrain suspects. Most of the plaintiffs appear to have resisted in some fashion, whether by leading the deputies on a pursuit, physically struggling with them or simply not complying with the deputies' orders. Nevertheless, with the exception of one plaintiff who had a bottle raised in his hand, all of the plaintiffs in these cases were unarmed. The deputies often were larger than the plaintiffs and/or outnumbered them.

Independent witnesses in some of these cases supported the plaintiffs' claims that they were intentionally beaten while restrained. One plaintiff was under the influence of PCP and may have been difficult for the deputies to control, but witnesses said he was pulled out of the patrol car after being restrained and was beaten a second time. Another man suffered fractured ribs and severe neurological damage from a beating in his home that he said occurred while he was handcuffed during the execution of a search warrant.

In some cases that involved a pursuit of a suspect by deputies, the subsequent beating appeared to be a "payback" on the part of an angry deputy.

### **Inmates Assaulted in Jail**

*An inmate in custody in the Central Jail in 1990 claimed in his lawsuit that he was struck in the groin by deputies, slammed against the wall and taken to an isolation cell where he was beaten with a flashlight in the head and ribs, because he had had trouble spreading his legs during a search due to vomit on the floor. The deputies denied*

Charges against Deputy B were deemed to be "unsubstantiated" after an IAB investigation, and he received no discipline as a result of this incident. No other deputy involved in the incident received any discipline. But the County paid through the nose: \$925,000 in cash payments, plus coverage of medical costs for the friend's back surgery.

Today Deputy B is working as a field training officer, responsible for training new deputies in the performance of their duties.

*the charges and said that his injuries occurred when a very large deputy shoved him against the wall of the cell, striking his legs against a metal bench. This incident resulted in \$28,000 in medical expenses and cost the County \$325,000. Three of the deputies involved were discharged.*

*An inmate at the County Jail in 1985 was pulled out of line by a deputy after returning from a meal because one of his hands was hanging outside his jumpsuit in violation of an order that inmates were to keep both hands in their pockets. The inmate said that his jumpsuit was missing a pocket. He alleged that after he stood against a wall for 5 to 10 minutes, he was struck in the ribs by the deputy and then hit in the eye. The deputy said the blows were a result of the inmate's attempt to hit him with his elbow. He and another deputy then allegedly hit the inmate repeatedly in the head and torso, causing him to fall to the ground, where again the deputies allegedly hit him 15 to 20 times. The deputies' version of the story included only a couple of punches. The County paid \$100,000 to settle the case brought by this inmate.*

With one exception, the 13 jail-beating cases we reviewed involved single victims who were unarmed and who were beaten or otherwise injured in a custodial setting. Plaintiffs in these cases obtained settlements and verdicts totalling \$1,305,000. The injuries were particularly severe in these cases. One man became permanently lame, another suffered a dislocated shoulder, another required a splenectomy, another had a testicle removed, another lost his peripheral vision, two required nose surgery, and four suffered broken bones.

At least six plaintiffs in the jail-injury cases were beaten after they did not comply with deputies' orders or otherwise created disturbances. A seventh said he was asleep when deputies attacked him. In two of the cases, victims were injured by other inmates and alleged that jailers knowingly placed them in cells in which they were likely to be attacked. One man lost an eye when he was stabbed after being placed in a module with

Crips gang members in spite of the fact that he was wearing red (Bloods' gang colors) on his tennis shoes.

Two of the cases involved female inmates at the Sybil Brand Institute. One was injured when she was held in an "armlock," and the other was injured during what the deputies called a "takedown."

Two of the jail-beating cases were specifically alleged to be racially motivated.

*An African-American inmate who punched out a Caucasian inmate at the Wayside (now Pitchess) Honor Rancho alleged that deputies belonging to a white supremacist gang of deputies known as the "Wayside Whities" subsequently pulled him from his barracks and beat him to "teach him a lesson" about beating white guys. This 1989 incident resulted in \$4,800 in medical expenses and cost the County \$60,000.*

*One morning in 1986, as inmates at the Hall of Justice Jail lined up for breakfast, a deputy ordered an African-American inmate to hang up the telephone, allegedly calling him an "asshole" and a "nigger." An altercation ensued, involving several deputies and a few other African-American and Hispanic inmates. One of these inmates was left permanently unable to walk as a result of the incident. That evening, a different group of deputies, who said they were executing a contraband search, went from cell to cell, allegedly pulling out African-American inmates and beating them. The County paid \$175,000 to six inmates to settle the resulting lawsuit.*

## *Investigation of Incidents and Discipline*

### **Investigations**

In almost all of the cases we reviewed, some use of force was reported by Department

personnel immediately after the incident occurred. The use of force was determined to be justified by a supervisor at the station in most of the cases in which it was reported. The first level of scrutiny available to the Department in determining whether the force used was excessive is the examination of arrest reports, where a notation must be made of the use of force after an oral report is made. The fact that the use of force was determined to be justified in cases that later led to large recoveries by the injured parties calls into question the effectiveness of this level of review.

Procedures recently adopted by the Department require the watch commander to fill out a form about any incident involving a "significant" use of force, a visible injury or a complaint of pain, or any other indication of misconduct, and to interview the injured person. He/she is required to determine whether the force used was "objectively reasonable" and to recommend further action if necessary. The unit commander then reviews the forms submitted by the watch commander. These procedures improve upon the former policy, which required the watch commander to determine whether the force was necessary and required no further action if he/she determined that it was necessary. The new procedures should raise the level of awareness of all watch commanders about the seriousness of any incident involving injury or pain to an arrested person and, if implemented and enforced, should improve the initial investigation of excessive force incidents.

Our review showed that the arrest report almost always was at wide variance with the allegations made by the plaintiff in a lawsuit. In fact, the two versions were often so diverse that a deputy's report alone could not have alerted a supervisor to a problem. It is for this reason that the reviewing officer must take into account all the information available to him/her, including the apparent seriousness of the arrested party's injuries, the need for medical treatment, the arrest charges, the statements of the suspect/victim, the statements of witnesses, supplemental reports by other deputies, the oral report of use of force and the arresting deputy's report.

Although all of these factors are important in determining whether the use of force in a particular case was "objectively reasonable," three factors that have led to large plaintiff recoveries in excessive force litigation should be given substantial weight.

**The first such factor is the severity of a suspect's injuries.**

Force that has resulted in life-threatening injuries or serious or painful injuries such as broken bones, knocked-out teeth and lacerations requiring sutures, particularly on the head, should not be readily approved, especially in cases in which the injured party was not arrested for any crimes other than those associated with the altercation with the deputy.

**The second factor is the arrest charges filed against the injured party.** A substantial majority of the cases we studied involved no criminal activity by the plaintiff before contact with deputies. Where the only arrest charges against a suspect are resisting or obstructing a peace officer, or battery of or assault on a peace officer, the use of force should automatically be subject to a higher level of scrutiny. The cases we reviewed suggest that the use of force should also be examined carefully in cases in which the arrest charges filed against the injured party are limited to disturbing the peace, unlawful assembly or disorderly conduct.

The fact that the arresting deputy claims that the use of force was in response to an assault by the injured party should not automatically resolve the issue of the appropriateness of the use of force. If, as we recommend, deputies are trained how to avoid or defuse, to the greatest extent possible, the kind of arguments that may lead to assaults or threatened assaults by angry people on deputies, the use

The County paid \$150,000 in 1989 to settle the claims of a man injured when a deputy pushed him through a wire-reinforced door window, but the station commander's report a few days after the incident in 1983 blamed the injured man and even the window, and exonerated the deputy.

The incident began one night when a deputy arrested a driver for drunk driving and then arrested the passenger for being drunk and disorderly. A back-up deputy reported that the passenger was belligerent and called the deputies "pigs," and the arresting deputy stated in the arrest report that the driver and the passenger spat on the windows and dashboard of his patrol car as he waited outside for the tow truck. The driver claimed that the arresting deputy told the passenger that "he was going to get it," but the deputy denied being angry or making a threat.

At the station, as the deputy escorted the handcuffed passenger into the station, he pushed the passenger's head through the jail door window, smashing two sheets of regular glass, a sheet of plexiglass and more than 100 strands of wire. The deputy said that the passenger was resisting any forward movement and that he instinctively shoved the passenger into the window when the passenger suddenly pushed against him and stepped on his foot.



but the driver said that the deputy pulled the passenger's head back approximately two feet and rammed it straight through the window. Photographic evidence of the damage to the window supported the driver's account of the incident. At the time of the incident, the passenger was 41 years old, 5 feet, 9 inches tall and weighed 170 pounds, while the deputy was 28 years old, 6 feet, 3 inches tall and weighed 210 pounds.

In addition to a head laceration, the passenger suffered major nerve, artery and muscle damage to his right arm and elbow. He also attributed a subsequent stroke to the damage he suffered in this incident.

In his report four days after the incident, the station commander concluded that the deputy "conducted himself properly" and described the injuries as "an unfortunate consequence of...(the passenger's) aggressive actions and...(the deputy's) reaction." The commander added that "there is strong suspicion in my mind that the glass may have had undetected flaws or weaknesses which allowed it to break through as it did."

An IAB investigation into the deputy's use of force concluded that the charges against him were "unfounded." He received no discipline for the incident. Today, he is a patrol deputy at the Temple City station.

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of force in connection with such an argument should not necessarily be approved. The officer approving the use of force must take into account the avoidability of the incident.

**The third factor in determining the reasonableness of force used is the existence of witnesses who support the claim that the injuries resulted from excessive force.** The testimony of such witnesses can lead to substantial liability in a subsequent civil case, so it makes no sense for the watch commander to discount such testimony at this early stage.

We understand the tendency of the Department to believe its deputy's version in a dispute involving conflicting stories. Department members have analogized the relationship of the watch commander and a patrol deputy reporting on the use of force against a suspect to a parent-child relationship, where the parent naturally tends to believe the word of its child over the word of another's child. But a "parent" should not automatically believe his "child" if the hard evidence, including the testimony of witnesses, supports the other "child" or if his "child" is accused again and again of the same thing by different people.

In many of the cases we reviewed, the arrest reports did not contain names of any witnesses to the use of force, or only the names of witnesses who would support the deputies' version of the incident. The witnesses who were ready to testify in support of the plaintiffs' case during the litigation often were not listed at all in the Department's reports prepared at the time of the incident. In some cases, private investigators were hired by the defense attorneys representing the Department to locate witnesses who had not been

interviewed at the time of the incident. These investigations were hampered by the fact that the incidents usually occurred several years previously, and, for this reason, the identity and location of many witnesses could not be determined.

Some units in the Department now make a point to locate and preserve all evidence of the use of force at the time of the incident, including the names of all witnesses, regardless of whether the evidence preserved is favorable or unfavorable to the Department. This practice is absolutely necessary, and a much-needed improvement over general routine, to the extent it is implemented.

The new Departmental procedures relating to the watch commander's initial investigation of the use of force will be useful only if the watch commander and his/her superiors are held accountable in the event it is later determined, in the litigation process or otherwise, that they did not adequately investigate and/or report on an incident involving the use of excessive force.

We understand that in many cases a thorough investigation of an incident involving the use of force cannot be completed by the time a watch commander is required to make a determination of the reasonableness of the force used. Some evidence relating to the use of force may not be available at the time the approval of such use of force is given. Suspects in custody may be unwilling to be interviewed by Department personnel about the use of force because of criminal charges pending against them, or because of fear or anger about the injuries already received. Some injuries at first will not be apparent. Soft-tissue injuries may not be diagnosed immediately. Bruises may not appear until after a beating victim has been released from custody. Other injuries, such as back injuries, may not be revealed for weeks. In addition, the identification and questioning of all possible witnesses to the use of force often is not feasible prior to the time the determination must be made of the reasonableness of the force used.

According to procedures recently adopted, an IAB "roll-out" team is automatically sent to investigate any use of force that results in the hospitalization of the injured party. Our

review suggests that using hospitalization as the only determinative factor may not be enough. Very few of the cases reviewed involved victims who were hospitalized immediately after the incident. Almost all of them received emergency medical attention, often with continuing treatment, and some required subsequent surgery and/or hospitalization. Thus, using a policy linking an IAB "roll-out" investigation with hospitalization would have resulted in IAB investigations in very few of the cases that ultimately resulted in substantial settlements and verdicts.

Because IAB records of investigations prior to 1986 no longer exist, it is impossible to determine whether all the cases we reviewed involving incidents during that time resulted in IAB investigations. An IAB investigation of an incident may be hard to locate because it may be filed under the name of the person who filed the citizen's complaint that led to the investigation, rather than under the name of the person injured who subsequently became the plaintiff in the litigation. IAB investigations may also have been "uncarded" from the IAB card catalog if they were closed or deemed to be frivolous. With these limitations on our search for IAB investigations of the incidents giving rise to the 124 cases we reviewed, we found evidence of internal investigations of only 100 deputies involved in use-of-force incidents that resulted in 57 of the 124 cases. Some of the deputies were involved in more than one case and some cases involved more than one deputy.

It was not possible to determine with any certainty from the files we reviewed whether the IAB investigations were thorough. However, the adequacy of the procedures governing the investigations is called into question by the fact that only a small number of these investigations led to determinations that the allegations were "founded," and the fact that discipline was imposed on so few of the deputies involved in the underlying incidents. Allegations were determined to be "founded" against one or more of the deputies involved in only 18 of the 57 incidents investigated. Allegations were deemed to be "unsubstantiated" against the deputies involved in nine of the incidents, and

allegations were determined to be "unfounded" against the deputies who participated in 24 of the 57 incidents. Allegations against deputies involved in an additional two incidents were deemed to be "unfounded/unsubstantiated" or "unfounded" against some deputies and "unsubstantiated" against others. Investigations of allegations in four incidents were closed without resolution, but in one of those cases the deputy was fired shortly after the incident. The allegations of excessive force that were investigated but determined to be "unfounded" and/or "unsubstantiated" in 35 of these incidents subsequently gave rise to settlements and verdicts that cost the County a total of more than \$3.8 million. See Chapter on Tracking the Use of Force for a more complete discussion of "founded," "unfounded" and "unsubstantiated" allegations.

### **Discipline**

According to the IAB card files we could locate, discipline was imposed on only those deputies against whom the allegations of excessive force were determined to be "founded": 22 deputies involved in 18 incidents. It is possible, however, that others were disciplined but the dispositions were not listed in a common database or file.

The discipline imposed varied from case to case. Six deputies were fired (3 over one case), and 1 more was allowed to resign after termination was recommended. One deputy received an oral reprimand in one case and a written reprimand in another, and 14 deputies were given suspensions, amounting to a total of 123 days.

Of the suspensions, 3 were for 3 days each, for cases costing the County \$100,000, \$75,000 and \$45,000; 3 were for 5 days each, for cases costing the County \$27,000 (involving two deputies), and \$25,000; 2 were for 6 days each, for a case costing the County \$25,000 and for one in which the plaintiffs were awarded a verdict of more than \$100,000 that is on appeal; 1 was for 7 days, for a case costing the County \$30,000; 2 were for 10 days each, for cases costing the County \$60,000 and \$25,000; 2 were for 15 days each, 1 for a case costing the County \$150,000 and the other for the same case resulting in

the verdict mentioned above; and 1 was for 30 days, for a case costing the County \$50,000.

*In most cases, the deputies present during an incident of excessive force told similar stories about what happened. But in one case, in which several deputies were alleged to have used excessive force to break up a gathering, the "code of silence" failed to operate.*

*One deputy who had been at the scene said that those who were arrested were acting in a cooperative manner and that the force used by several deputies was excessive.*

*He went so far as to say that it was the aggressive behavior of some of the deputies that caused the problem and escalated the confrontation between the deputies and those arrested.*

*His statement related details of specific actions of various deputies, as opposed to the more vague recollections of most of the deputies at the scene.*

*The deputy also said, however, that as a result of his stance, he was ostracized at the station. He said there were hard feelings between him and other deputies and that he believed his stance had hurt him in terms of his position.*

*The County settled the case for more than \$50,000.*

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**We found several cases in which the accuracy of deputies' reports of the use of force was absolutely discredited because the injuries sustained were inconsistent with the force reported and were consistent with the testimony of witnesses, and yet no discipline was imposed on the deputies involved. The files of some of these cases included statements by deputies who witnessed the use of force but did not participate in it. These statements appeared in supplemental reports filed by the deputies at the time of the arrest of the injured parties and in trial and deposition testimony by these deputies. In most of these cases, the deputy-witnesses' reports tracked the versions given by the deputies who used the force. In other cases, none of several deputies present during an incident involving the use of force "recalled" the use of force alleged, even though the injuries sustained and the statements by independent witnesses conclusively established that the force was used.**

**We found no instance in which a deputy involved as a witness in one of these cases was investigated or disciplined for having failed to report the use of excessive force by another, or for having reported inaccurately the extent of the force used. The Department has established a procedure requiring all deputies who witness the use of force by another deputy to file a report about the use of force. This procedure is a commendable improvement over the earlier system that allowed the deputies to use their discretion in determining whether the force should be reported and that may have**

promoted the "code of silence." However, the requirement that deputies file reports about all force used or witnessed will not lead to accurate reporting if no discipline is imposed for failures to make accurate reports.

### *Process of Tracking Civil Litigation as it Relates to Personnel Issues*

All civil litigation involving the Department is monitored by Department officials who participate in approving all settlements in excessive-force cases and in deciding which cases should be taken to trial. They are aware of the identities of the deputies named as defendants. They are informed of the evidence against the deputies and the County, including medical expert testimony on the type of force necessary to cause the particular injuries suffered, the testimony of independent witnesses to the incident, the testimony of experts on police procedures and the testimony of the plaintiffs and the deputies involved. However, the evidence produced in connection with the litigation we reviewed apparently almost never triggered any new investigations of the deputies involved, and the results of such litigation virtually never appeared in the personnel files of the deputies involved. The performance ratings and promotions given to these deputies apparently were not affected in any way by the litigation. We located only one instance in which a verdict was entered into a deputy's personnel file, and that was a verdict for the County in a case in which he had been involved.

The discrepancies are striking between the descriptions of the deputies' performance that are made based on evidence produced during the litigation and the evaluations of the deputies in their personnel files. A number of examples can be cited:

In one case, two deputies were commended at the time of a shooting incident that resulted in a man's death, and yet the County later settled a lawsuit over the incident for more than half a million dollars. The evaluations of the deputies' performances were

Two Norwalk deputies were involved in separate incidents in 1983 and 1984 that resulted in excessive-force litigation ending in costly settlements by the County.

In the first case, at about 4 a.m. one day in September of 1983, the two deputies riding in tandem vehicles stopped three boys, ages 13 to 14, who the deputies said they saw running down the street. The boys said they were going fishing and were approached by the deputies as they stood in front of the house of the grandfather of one of the boys. The deputies released that boy to his grandfather's custody, but they handcuffed the other two and put them in their patrol cars. There was no evidence that the boys were involved in any criminal activity at the time.

The deputies took the boys on a response to a prowler call and then drove them to the parking lot of the nearby La Mirada Country Club. They separately interrogated the boys for 20-30 minutes before releasing them. The boys were not seriously injured, but they did allege that the deputies used force on them, including a light baton blow to the older boy's head. In addition, the younger boy claimed that the first deputy challenged him to hit the second deputy with a baton, and the second deputy then pointed his gun at the boy and threatened to "blow a fucking hole" in him.

laudatory. One of the deputies was commended for his "exemplary" performance. The other deputy's evaluator was "proud of him" and noted that due to his "maturity and training he did not come apart" when he found himself in a "precarious position."

In another case, a deputy named in two lawsuits, for which the County paid out \$100,000 and \$30,000 respectively, had no mention of either incident in his personnel file. In fact, he had no evaluation at all for the year in which the \$100,000 incident occurred. He had been rated "competent" during the period of the \$30,000 incident and the only negative item in his file referred to a traffic accident. He has left the Department on his own volition.

In yet another case, a deputy involved in a shooting death and a severe beating case in one year resulting in two substantial settlements received a "very good" rating that year and either "very good" or "outstanding" ratings since. His file contained statements by supervisors that his attitude was "pure gold" and that he never was the subject of citizen complaints.

In other information taken from personnel files, we learned that a deputy involved in a \$70,000 beating incident was lauded in a review one month after the incident for demonstrating tact, courtesy and self-restraint in dealing with the public.

Allegations that a deputy threatened, cursed, kicked, insulted and beat an innocent man mistaken for a car thief resulted in a settlement of more than \$50,000 by the County but was not mentioned in the deputy's personnel file. He was rated as "competent" and subsequently received six commendations as well as four suspensions unrelated to force issues.

A deputy involved in a case in which a drug suspect alleged he was beaten and which resulted in a \$75,000 settlement had an "outstanding" evaluation for the period in question. He also had a dozen departmental commendations, three citizen commendations and one from another agency. His file also lists four suspensions during the five-year period before the incident, two involving drinking but none involving excessive force.

It is ironic that while discipline in excessive-force cases is rare, and notice of excessive-force incidents seldom is included in the personnel records of deputies, more than 40 deputies had comments in their files regarding suspensions or reprimands arising out of traffic incidents, or just notice of vehicle-related activity. One deputy received a six-day suspension simply for failing to register his car. In comparison, it should be noted that seven deputies who were found to have used excessive force in cases that cost the County a total of more than \$350,000 each received suspensions of less than six days.

Even in cases in which deputies were disciplined as a result of excessive-force incidents, their personnel records rarely included any reference to the discipline. Moreover, even where the discipline was disclosed, the personnel records did not always reflect any adverse consequences as a result of the discipline. One deputy received a "competent" rating for the period in which he was disciplined for violating Department policy and procedures in connection with an incident that resulted in a \$35,000 settlement. His personnel record said that his suspension may be attributed to "overzealousness," rather than disregard for the rules. He subsequently received

if he picked up the baton. The boy said in his citizen's complaint that he was "really scared" and that he was told, "What if he took your life right now? No one would miss a punk like you." He said he was taunted and called names like "wimp." The deputies denied brandishing their weapons, making threats or any other behavior calculated to terrorize the boys.

The deputy trainee's deposition was described as being more favorable to the boys than to the deputies. He declined to stay with the Department. Both deputies received five-day suspensions for their actions in this incident, and the County settled the resulting lawsuit for \$27,000.

In the summer of 1984, these deputies again participated in actions that resulted in an excessive-force lawsuit against the County. The case involved a young man who had previously received a \$20,000 settlement in an excessive-force lawsuit against the County that arose from an incident involving a different Norwalk deputy. The man claimed that he was the target of harassment by some Norwalk deputies in retaliation for his success in the earlier lawsuit. In two incidents a few weeks apart, he was involved in fights with deputies. In the second incident, a deputy struck him in the head with a flashlight, and his father was beaten when he attempted to intervene. ←



**The first deputy was a key figure in both of the 1984 incidents, but the second deputy was involved only in the second incident and was not named as a defendant in the lawsuit. The IAB investigation of the 1984 incidents concluded that the force allegations against both deputies and all other deputies involved were unfounded.**

**The County paid \$400,000 to settle the case.**

**Both deputies currently are investigator deputies at the Norwalk station.**

■

“very good” ratings and worked as a field training officer.

The situation represented by these examples seems to be a case of the right hand not knowing what the left hand is doing. Some Department members are aware of all of the facts related to excessive-force litigation indicating misconduct by deputies that has cost the County substantial amounts of money in settlements and verdicts, yet the Department members responsible for making personnel decisions are apparently not informed of those facts.

Several reasons are given for the absence of any information relating to civil litigation settlements or verdicts in the personnel files of the deputies involved:

First, Civil Service rules require that performance evaluations be timely. Although the deputies’ union contract apparently would not prohibit placing anything in a personnel file that refers to an event several years earlier, questions of “double jeopardy” may be raised if the Department takes personnel actions based on a plaintiff’s jury verdict after a Departmental investigation resulted in a determination that the plaintiff’s allegations were “unfounded.”

Second, the Peace Officers’ Bill of Rights would allow a deputy to request a hearing to dispute the inclusion of any paper in his personnel file that could be used as a basis for discipline. Inclusion of information pertaining to a settlement could be challenged since there is no admission of liability, although it may be more difficult to challenge the inclusion of a verdict.

Third, it has been argued that it would be “unfair” to put settlements and verdicts into the deputies’ personnel files because a case may have been lost or settled due to factors unrelated to the actions

of the deputies. Examples of such factors cited by a representative of the Department include incompetent defense attorneys who were not picked by the deputies, adverse publicity, sympathetic victims, "biased" judges, "biased" juries and fear of having to pay high plaintiff's attorneys' fees.

It is possible that a careful evaluation of the incident that led to an excessive-force verdict or settlement would lead the Department in some cases to conclude that a deputy should not have his/her future employment or promotion affected by the verdict or settlement, even if the deputy participated in the use of force. However, it is not possible that careful evaluations of all such incidents would lead to a conclusion that they should all be excluded from the deputies' personnel files because of one or more of these factors.

Fourth, there is a tension between the desire to minimize liability by not creating discoverable files about an officer's past misconduct and the desire to create complete files about past misconduct to be used for disciplinary purposes or in performance evaluations. The simplified answer to this dilemma is that the best way to minimize liability is to stop the actions giving rise to liability by rooting out deputies who cause the problems and keeping better watch over those who have the potential to do so.

Fifth, the County may not want to create a potential conflict between its interests and the interests of the deputies that would require separate counsel for the deputies. It might violate the attorney-client privilege if the defense attorney representing both the County and a deputy took any action counter to the interests of the deputy with respect to information learned in the litigation process, such as commenting adversely on the deputy's credibility as a witness in summaries of litigation that might end up in the deputy's personnel file. Moreover, if the deputy made an admission to his defense counsel that was covered by the attorney-client privilege, the lawyer could not then relay that privileged information to the deputy's employer to be used against the deputy for disciplinary purposes.

We believe, however, that this type of privileged disclosure is not necessary. Most of the time, the deputy's version is set forth in the arrest report, and in testimony under

penalty of perjury at the criminal trial of the plaintiff and in the depositions in the later civil litigation. The deputy's version in this form, without any assessment by the defense lawyer, could be reviewed by his supervisors and be compared to the physical evidence of the injuries to the plaintiff and to the testimony of independent witnesses.

All of these issues must be addressed in determining how information learned during the civil litigation process and the results of such litigation can be used in connection with personnel decisions by the Department. But somehow this information must not be ignored, or the personnel records of deputies who use excessive force will continue to have no mention of serious misconduct, even when that misconduct is known to the Department.

The Department must be able to use the information learned in the litigation process to review the conduct of the Department members involved and to determine whether any further investigation or discipline is required.

### *Recommendations:*

**1. The Department should continually review and track the civil litigation involving excessive force to determine which repeat patterns have led to the use of excessive force in the past, and to determine how the use of excessive force in those cases could have been avoided. The Department should develop training materials, based on the facts of cases that resulted in settlements or verdicts against the County, to teach deputies how to avoid repeat occurrences of excessive force in circumstances that have been shown to lead to the use of force in the past.**

The Christopher Commission recommended that "conduct that results in large settlements or judgments, including punitive damages awarded on the basis of egregious or intentional misconduct, should be carefully studied to determine what went wrong and

why." In the Department's Executive Planning Council response to Sheriff Block on the Christopher Commission Report, it said that "the County Counsel has developed and presented lectures addressing civil liability. The Department has developed and issued training bulletins discussing civil liability and is also developing a series of videotapes based on actual litigation involving the Department." It is also developing "a software program that will allow civil cases to be tracked and causes and results analyzed to determine if the deputy's conduct was appropriate."

The lectures, training bulletins and videotapes discussed are all geared toward post-incident training to help strengthen the defense of civil litigation. These training materials include references to the need to take down all the names of witnesses, to write careful reports, to have good demeanor as witnesses and to prepare testimony carefully. A script for a litigation-training film has been completed, pointing out that the judge and jury's mental picture of the event is affected by the deputy's attitude and demeanor. It advises against dressing like a cowboy, clowning around with other deputies in the courthouse and failing to take the matter seriously. All this may be helpful in cutting down the cost of civil litigation against the County, but it does nothing to prevent excessive force that gives rise to the litigation.

Our focus instead is on the training that should occur **before** incidents happen. This training should address the issue of when the use of force is required, alternatives to the use of force and methods to defuse situations and avoid the escalation of the use of force.

Because so many of the cases involve the use of force stemming from conflicts between deputies and unarmed people who were innocent of any criminal activity before they came into contact with the deputies, the Department should specifically address the issue of how the arguments leading to the use of force could have been avoided. It should produce training materials directed to avoiding such arguments where possible and handling such arguments without the use of force where the arguments cannot be avoided.

In addition, specific repeat patterns occurring in civil litigation should be used as the

basis for training deputies about how to avoid the use of excessive force under those recurring circumstances. One example is a response by deputies to a "loud-party" call. Incidents arising out of "loud-party" calls involve very predictable facts that could be analyzed by the Department to determine how best to avoid problems relating to the use of force. There will virtually always be witnesses to any force used by deputies in these incidents, and the Department's risk of civil litigation should serve as a strong incentive to take steps to avoid mistakes that are likely to lead to costly settlements or verdicts.

With respect to the software program discussed by the Department's Executive Planning Council, the Department at last report had this "under development" with a completion date estimated to be 1993-94. Such a program, if carefully done, could be of great benefit and should include the tracking of information discussed below.

**2. The Department should establish "early warning systems," by keeping track of statistics that will help to determine which deputies are likely to use more force than necessary, and which stations tolerate the use of excessive force.**

Many of the statistics we tracked for the purpose of compiling this report could be used by the Department to detect which deputies and which stations may be becoming problems with respect to excessive force. The focus should be to track facts not subject to credibility disputes, such as use-of-force reports, actual injuries to victims, head strikes, arrests for criminal actions confined to interactions with the deputies, drunk and disorderly conduct and disturbing the peace, and independent witnesses.

The tracking of use-of-force reports is particularly needed. Currently, in order to determine how many and what type of such reports any one deputy has generated, a hand search of arrest reports at each station where a deputy has worked must be undertaken, and a review must be made of a supervisor's log book when possible. These reports should be tracked, so that the quantity and quality of such reports could be readily available to those making evaluations of deputies and determining their assignments. See chapter on Tracking the Use of Force.

**3. The Department should improve the quality of the initial investigations of use-of-force incidents.**

The Department must come down hard if the use of force is not reported completely and honestly at the time of the incident. In addition, a watch commander must be held accountable if he/she determines that force used in an incident was "objectively reasonable" or recommends that no further investigation is necessary, without careful consideration of all of the relevant facts. These facts include the type of injuries sustained by the arrested party, the arrest charges, the presence of any witnesses other than the deputies and the injured party, and the avoidability of the force used. All supervisors and superiors involved must be held similarly accountable. (See chapter on Tracking the Use of Force.)

**4. The Department should review IAB investigation procedures to determine why so many allegations resulting in substantial verdicts and settlements were not investigated by IAB, and why so many of such allegations that were investigated by IAB were deemed to be "unfounded" or "unsubstantiated."**

**5. The Department should use the lessons learned from a review of the civil litigation to increase the frequency and effectiveness of discipline imposed on deputies who use excessive force and on deputies who fail to report accurately excessive force they witnessed being used by other deputies.**

Because the civil litigation process often results in the most complete presentation of the evidence of the use of excessive force, including statements by the plaintiffs who may not have agreed to be interviewed during Departmental investigations of the incidents and opinions from medical and police- procedure experts, the Department should take advantage of the information learned during the litigation process in determining whether discipline is appropriate for deputies who are alleged to have participated in the use of excessive force or for deputies who witnessed the use of excessive force by others but failed to report it accurately.

Our review showed that when discipline was imposed for excessive force, it was often minimal. The Department should review its priorities in determining the appropriateness of discipline imposed to make sure that disciplinary measures taken for the use of excessive force are not less than those taken for other less significant misconduct, such as traffic violations or other misconduct relating to the handling of the deputies' vehicles.

**6. Results of litigation, including a full report of the underlying incident, summaries of the testimony of all key witnesses and the amount of the settlement or verdict, should be included in the personnel files of deputies who were alleged to have used excessive force during the incidents.**

**7. "Unsubstantiated" allegations should be placed in a deputy's personnel file.**

If there are conflicting reports about an incident, Internal Affairs calls an allegation "unsubstantiated." One "unsubstantiated" allegation may not merit much action, but several similar allegations, each deemed to be "unsubstantiated," may deserve more attention.

One deputy who was involved in the use of excessive force in connection with the breakup of a large family party that resulted in a settlement of \$225,000 to the people injured by the deputy had been the subject of several prior excessive-force complaints. Allegations of unnecessary force resulting in investigations were made against him in 1983 and 1984, and two allegations were made in 1985, including the incident that led to the litigation.

Two of these investigations resulted in findings that the allegations were unsubstantiated. The investigations of the other two incidents were closed after the injured parties refused to be interviewed by the investigators. Three of the incidents involved Hispanic victims, and one of the incidents involved allegations of many anti-Hispanic statements by the deputy.

By excluding any references to these investigations in the deputy's personnel file, the deputy is presumably viewed for promotion purposes exactly the same as a deputy with no

excessive-force complaints. This does not seem to be a desirable result, if the Department wishes to minimize excessive-force incidents in the future. See chapter on Tracking the Use of Force.

**8. The Department should make the prevention of excessive force a high priority and hold all members of the Department, from deputies to their immediate supervisors to those at the highest levels accountable for excessive-force incidents.**





## 5 . C a n i n e U n i t

The Los Angeles County Sheriff's Department's canine unit consists of 14 dogs, mainly Belgian Malinois and German Shepherds. Before deployment, the dogs are trained in basic obedience and tactical police work. Armed with a superior sense of smell and a hunting or "prey" instinct, the Department's dogs can be used as an extraordinary law enforcement tool: They can search for fleeing, sometimes armed and dangerous suspects in buildings, warehouses and other spaces, frequently at night, far more safely and quickly than humans. For this reason, the dogs are rightly credited with reducing injuries to and saving lives of deputies in the line of duty.

But the LASD's dogs are not trained just to find suspects. They are also trained to seize the suspects by biting and holding them until they are taken into custody, unless they surrender to a deputy before being found by the dogs. Because these dogs have extremely powerful jaws, their bites can result in significant injuries to the suspects, including puncture wounds, lacerations, arterial vascular damage, functional impairment and psychological trauma.

The LASD Special Enforcement Bureau (SEB), which oversees the LASD canine program, screens deputies who apply to be dog handlers. As part of the application process, among other things, SEB checks the applicant's background. Founded allegations of excessive force result in the disqualification of the applicant. Numerous unfounded allegations of excessive force can tip the balance against the applicant. The applicant's then-supervisors are interviewed, as are deputies with whom the applicant has worked. The applicant is then interviewed by two supervisors in the canine unit.

Numerous lawsuits have been filed against the Department accusing it and individual deputies in the canine unit of excessive force and racial discrimination in the use of the dogs. Plaintiffs complain of being attacked and mauled by the Department's dogs without cause or justification as they attempt to surrender or after they are in custody, and because of their race. And they complain of bites to all body parts: head, neck, face, chest, legs, arms and genitals.

While all of the excessive force cases involving dogs that have been tried to date have resulted in defense verdicts for the Department (except for one in which the jury was unable to reach a verdict), the County has settled some of the cases before trial. But more importantly, the allegations made in these cases are troubling and raise serious questions about the canine unit. We have sought in this investigation to examine the most significant of these questions, and we set forth our conclusions below

### *Sheriff's Department Written Canine Deployment Policy*

California Civil Code Section 3342 grants governmental agencies civil immunity in California courts for police dog bites, if the bites occurred in the apprehension or holding of a suspect where the dog's handler had a reasonable suspicion of the suspect's involvement in criminal activity and if at the time of the bites the agency had a written policy on the necessary and appropriate use of the dog for such work.

The LASD has a written policy regarding canine deployment. As revised January 8, 1992, the policy permits deployment of dogs to search for armed suspects, felony suspects and for armed misdemeanor suspects wanted for "serious" crimes where the circumstances present a clear danger to deputies who would otherwise search without a dog.

The policy prohibits deployment of dogs to search for suspects wanted solely for grand theft auto, absent extenuating circumstances, or to search for known juvenile offenders, except where justified by the severity of the crime or "other critical factors," such as whether the juvenile is believed armed or has a known propensity for violence. In such cases involving juveniles, deployment must first be authorized by a supervisor.

The policy has a few other significant aspects, including the following: (1) A canine supervisor from the SEB or a field supervisor must be present at a canine search to ensure that the Department's canine policy is followed; (2) before deploying a canine team,

an announcement concerning the intended deployment must be made. The announcement, which must be clear, audible and loud, and made in English and Spanish if necessary, is intended to afford the suspect an opportunity to surrender to a deputy prior to deployment. Before a search is commenced, deputies assisting in the search must confirm hearing the announcement. The announcement is mandatory except in a search for an armed suspect where making the announcement could endanger the deputies' safety. In such cases, the announcement can be waived, but only with the prior approval of the on-scene supervisor;

(3) when a bite occurs, in addition to making a verbal report to the station watch commander, the handler must prepare a written bite report, and is responsible for taking pictures of bite injuries.

The Department's canine policy, however, is also notable for what it fails to say. For example, the policy does not specify either where on the "scale of force" a police dog's bite fits, or provide guidelines establishing when a dog should and should not be allowed to bite. These omissions are at the heart of at least some of the excessive force litigation against the canine unit.

### *"Find and Bite" vs. "Find and Bark"*

As noted above, the LASD trains its dogs to "find and bite." Under this approach, the dogs are trained to find, seize and hold the suspects by biting them until they can be taken into custody. In training exercises involving police tactics, the dogs primarily bite the protected arms and legs of the trainers. In actual apprehensions, if the suspects' arms or legs are not accessible to the dogs to bite, they will bite and hold any body parts that are exposed to them.

"Find and bite" training is contrasted with another training method called "find and bark." Under that approach, the dogs are trained to find the suspect and to alert the handler to the find by barking. If the suspect moves after the dog has found him but before the dog

has been called back by his handler, or if the suspect attempts to assault the handler, the dog is trained to bite the suspect. There are no national figures available from any source showing how many law enforcement agencies use one method over another. Based on its own informal national survey, however, the Sheriff's Department avers that approximately 70% of all such agencies use "find and bite" training.

The Department defends using "find and bite" over "find and bark" training on several grounds. It argues that advocates of "find and bark" training ignore the big myth on which it is premised: That such dogs bite only in exceptional cases. In fact, the Department observes, because most suspects found by "find and bark" dogs are unaware they will be bitten if they move, many "find and bark" dogs do bite. The dogs generally track off leash and ahead of their handlers, and locate suspects before their handlers do. Faced with an approaching dog perceived as about to attack, many suspects either attempt to fight or flee, or otherwise gesture in ways that precipitates bites. Moreover, dogs trained to "find and bark" often try to provoke movement by the suspect in order to justify a bite by nudging the suspect's hand while circling and growling.

It argues that dogs trained to "find and bite" suspects make searches safer for deputies. Searches are generally conducted at night in dark rooms, warehouses, buildings and other spaces for suspects who are, or who may be, armed and dangerous. Suspects in these circumstances have a clear, tactical advantage. They can see but not be seen. While a barking dog may alert the deputy that a suspect's hiding place has been found, that deputy may still be unable to see whether the suspect is armed — until it is too late. A dog trained to "find and bite" can nullify this advantage either by biting the suspect until he surrenders or literally pulling the suspect from his hiding place. Of course, the dog is at risk of harm — at least one dog has been shot — but better the dog than the deputy.

We view these arguments as persuasive, but only to a point. "Find and bark" dogs do bite, and officer safety concerns rightly are and should be of paramount importance.

On the other hand, many suspects who are seized by "find and bite" dogs are unarmed and may not pose any danger to pursuing deputies. These facts and others — including the perception that litigation is more frequent against "find and bite" units — have led a number of other police departments to adopt "find and bark" training, including Chicago's and Philadelphia's.

### *Bite Ratios*

Whether the dogs are trained to "find and bite" or "find and bark," all observers, including critics and proponents of one or the other training approach, agree that one key measure of the quality of a police department's canine unit is its "bite ratio," that is, the number of bites to apprehensions. Experts, including those in dog bite cases against the Department, generally agree that less than 30 percent of apprehensions should, on average, result in a bite. See *Kerr v. City of West Palm Beach*, 875 F.2d 1546, 1551 (11th Cir. 1989).

The Department appears to be under that ratio, but not by a very large margin. During 1991, Department dogs were deployed in 1,228 searches leading to the apprehension of 213 suspects. 58 of those suspects received dog bites — a bite ratio of 27%. During the period from January through May 1992, dogs were deployed in 516 searches leading to the apprehension of 116 suspects. 23 of those suspects received dog bites — a bite ratio of 20%.

### *"Objective Reasonableness" Standard*

The Department's relatively low bite ratio, however, does not answer whether the apprehensions resulting in dog bites involved excessive force. Whether an apprehension resulting in a dog bite involves excessive and therefore unconstitutional force is analyzed under the Fourth Amendment's "objective reasonableness" standard. *Graham v. Connor*, 490 U.S. 386, 109 S.Ct. 1865, (1989); *Chew v. Gates*, 744 F.Supp. 952 (C.D.Cal. 1990). Objective reasonableness is evaluated in light of the particular circumstances from the

perspective of a reasonable officer on the scene, not with the 20/20 vision of hindsight. The factors to be taken into account when deciding how much force is appropriate to apprehend a suspect include "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham, supra*, 109 S.Ct. at 1872.

Data identifying the felonies for which canine searches were conducted reveal something about the severity of the crimes at issue. According to the Department's figures, 28% of all searches in 1991 were for suspects known or believed to be armed. Of the 58 apprehensions resulting in dog bites in 1991, 17, or 29%, were burglary suspects, 15, or 26%, were robbery suspects, 14, or 23%, were grand theft suspects, 7, or 12%, were assault with a deadly weapon suspects, 3, or 5%, were murder or attempted murder suspects, and 3, or 5%, were suspects in "other" crimes.

During the period from January through May 1992, 34% of all searches were for suspects known or believed to be armed. Of the 23 apprehensions resulting in dog bites during that period, 10 or 43% were robbery suspects, 5 or 22% were burglary suspects, 3 or 13% were murder or attempted murder suspects, 3 or 13% were assault with a deadly weapon suspects and 2 or 9% were rape suspects.

To look behind these data and to evaluate the particular circumstances of apprehensions resulting in dog bites, we reviewed dog bite reports from January 1991 through May 1992, provided us by the Department, force-related civil litigation against the Department and Internal Affairs Bureau reports. For the most part, these materials suggest that the crimes for which the dogs were deployed were serious ones and that the searches were conducted within Department policy. At the same time, however, some of these materials raised a few serious concerns.

Not all crimes appeared severe enough to us to warrant a canine search. The following example illustrates this point. On July 16, 1991, at approximately 2:45 a.m.,

two deputies responded to a felony auto burglary call at an apartment building in West Hollywood. When they arrived, two suspects fled. At the request of the deputies, a helicopter and a canine team responded to the scene. Before deployment, canine announcements were made by ground units and the helicopter. When the dog was released, the dog tracked one suspect to a carport in the rear of the apartment building. The dog found the suspect under the front of a Suzuki Samurai, near the right front wheel and next to a raised concrete walkway. The dog bit the back of the suspect's head and neck — evidently the only body parts exposed to the dog — and attempted unsuccessfully to pull the suspect through the small opening between the vehicle and the walkway. The handler followed the dog to the Suzuki, and called him off the bite. The suspect, a Caucasian male, aged 17, who was under the influence of alcohol, suffered three, two-inch lacerations to the back of his head and upper neck area, a one-inch laceration to his left ear, which was almost severed, and a two-inch laceration to the left upper cheek and temple area.

An Internal Affairs investigation of this incident was closed when it concluded that the force used was within Department policy. That conclusion was based on the fact the search was conducted at night, involved multiple suspects, was in an area with a heavy concentration of multi-unit and multi-story apartment buildings and underground garages, providing the suspects with numerous areas in which to hide, and also on the likelihood that the suspects might have been involved in similar activity in the past, and that canine announcements were made by the helicopter and by mobile units at four adjacent intersections.

While the bite in the circumstances here can be argued to be a use of force within policy for the reasons cited by the unit captain, the unanswered question is whether an automobile burglary, absent other factors, is a serious enough felony to warrant such a use of force. We question whether it is. Indeed, we view as anomalous that the Department's policy generally prohibits canine searches for grand theft auto suspects, but allows them for automobile burglaries.

These materials reflect numerous instances in which it appears that the dogs are allowed



by their handlers to continue biting suspects far longer than appeared necessary. When bitten, many suspects instinctively struggle with the dogs to escape their painful bites. Under what appears to be a tacit Department policy, handlers are permitted to allow the dogs to continue biting until the suspects follow the handlers' instructions to stop resisting the dogs and to become completely passive. The handlers are also permitted to use additional force to overcome the suspects' resistance to the dogs.

The following example illustrates this point. On the night of February 8, 1991, a handler responded to a call for a canine search for a suspect wanted for attempted robbery. After canine announcements were made, the dog was deployed. The dog found the suspect under a parked car in a back yard, and pulled him out from beneath the car. As the handler stated in his report about the incident:

*"When I approached the suspect, he was sitting on the ground. The dog was biting his left leg. The suspect had his left arm around the dogs neck. He began striking the dog with his clenched right fist. I yelled at the suspect to stop fighting with the dog. The suspect ignored my directions and continued his struggle with the dog. He then began to try and pull the dogs muzzle away from his leg. The suspect, by fighting with the dog, was causing more injury to himself. The suspect began to pull on the dogs head and ears. Since I was not getting any compliance from the suspect and he was beating the dog, I began to hit the suspects left shin area with my flashlight in an attempt to end the fight. After repeated blows on the leg, the suspect still was gripping the dogs muzzle . . . Sgt. [A] hit the suspects right arm with his flashlight in an attempt to free the suspects grip. That was unsuccessful too. He then took hold of the suspects rt [sic] arm with both hands and he was able to pull his hand off of the dog. He then pinned it onto the ground and placed his knee on his arm. The suspect still held onto the dog muzzle with his left hand. I hit the suspects left arm in an attempt to free his grasp. However, it had no effect. I told the dog to release his bite, which he did. The dog was off the bite, but the suspect still held onto the dogs muzzle.*

*I then placed my foot onto the suspect's face and neck. I pushed him away and pulled the dog in the opposite direction. This worked and the suspect no longer had hold of the dog. Once his grip was removed from the dog Sgt [A] was able to bring both hands behind his back and Dep. [B] then put handcuffs on him."*

The suspect, a Caucasian male, aged 24, suffered a large laceration on his left calf and lacerations to his fingers as a result of the dog bites.

This point is also illustrated by the following example. On April 19, 1991, at approximately 1 a.m., two handlers and their dogs responded to a burglary call at a large retail store. Before deployment, canine announcements were made by the deputies. During the search, one of the dogs alerted to a display where large area rugs were hanging from a rack. That dog then crawled between the rugs, and, according to the handler's account:

*"I heard a male voice yelling from the rear portion of the rug stand, but could not see anyone. I ordered the suspect to step out at which time suspect [Y] jumped from behind the stand and climbed onto a table adjacent to the rug stand. As suspect [number one] was being watched by backup deputies [A], [B], [C] and Sgt. [D], my canine . . . continued to stay behind the rug stand. I again ordered any other suspects out from behind the rugs. Suspect [Z] subsequently made himself visible to me. I noticed [the dog] had a grasp of the suspects right leg. Suspect [Z] was trying to kick [the dog] in the upper body area attempting to get away from him. I ordered suspect [Z] to show me his hands and to stand still. Failing to do so, suspect [Z] dropped to his knees and began grabbing the muzzle of [the dog]. Again I ordered him to keep his hands up and in plain view and not to move. This request was made a third time at which time suspect [Z] ceased fighting with [the dog] and layed [sic] prone on the ground. I immediately removed [the dog's] grasp on the suspect, which was now on his lower right portion of his back. The new grasp was due to suspect [Z's] aggressive behavior towards the dog and his attempt to disable him. Once my dog was removed, suspect [Z] was taken into custody without further incident."*

The bitten suspect, an African-American male, aged 21, suffered puncture wounds to his upper left arm, puncture wounds to his lower right back, and bite scratches to both legs.

**In our view, this practice involves the application of force that appears neither necessary nor justified. We believe that Department policy should be revised to require handlers to call dogs off bites at the earliest possible moment .** In the first example above, it was almost immediately obvious to the handler, who was standing by the suspect, that the suspect was not holding a weapon. Moreover, the handler was being assisted by at least two other officers in his efforts to stop the suspect from holding the dog's muzzle. In the second example above, it became obvious to the handler that the suspect fighting with the dog was unarmed when he grabbed the dog's muzzle with his hands — if not earlier. With at least four back-up deputies looking on, the dog was allowed to continue biting the suspect. In the above examples, there is no apparent justification for allowing the dogs to continue biting these suspects.

Our review indicated that claims of post-arrest bites were supported in a few cases by at least some conflicting evidence. For example, in a lawsuit filed in 1989 the plaintiff, a Hispanic male, aged 23, claimed he was attacked by a Department dog following his arrest as a robbery suspect while lying face down and handcuffed, and with four deputies looking on. The deputies flatly denied this allegation. But the deputies' own bite reports about the incident were inconsistent with each other, impeaching all of their accounts. One deputy wrote that the handler ordered his dog to bite the suspect before he was handcuffed to help overcome his resistance to arrest. The handler, by contrast, wrote that the dog "somehow managed to exit my police vehicle" and bite the suspect while he struggled with deputies. While there is no direct evidence that the dog bit the suspect after he was handcuffed, the conflicting accounts of the deputies suggest that plaintiff's claim cannot be rejected out of hand. This case was settled before trial for \$90,000.

In another case filed in 1989, plaintiff, a Hispanic male, aged 41, claimed he was beaten by deputies with flashlights, and was bitten by a Department dog after he was

arrested and handcuffed as an armed robbery suspect. The deputies involved in the arrest denied that any force was applied by them following the suspect's arrest. But an eyewitness asserted that she saw a deputy strike the plaintiff three to five times with his flashlight on or about the head after he was handcuffed and being escorted away. While the eyewitness evidently did not see the dog bite the suspect after his arrest, her statement contradicted the deputies' denial that any post-arrest force was applied. In this light, as in the example above, plaintiff's claim cannot be rejected out of hand. This case was also settled before trial for \$90,000.

Post-arrest bites, by definition, constitute excessive force. The Department states that it has zero-tolerance for such incidents, and handlers, observing that the practice would cost them their jobs and jeopardize the canine program, aver that they do not occur. But claims of post-arrest bites appear to be almost routinely discounted by the Department. While all such claims may ultimately prove to be spurious, we believe the Department should view them with the gravity they deserve and investigate them with vigor.

### *Bias Against Minorities*

In addition to the allegations described above, critics of the Department's canine unit argue that the victims of dog bites are primarily Hispanic and African-American suspects. Data provided us by the Department, standing alone, do appear to support that claim. As noted above, there were 58 apprehensions resulting in dog bites during 1991. 24 of the 58 suspects or 41% were Hispanics; 23 or 39% were African-Americans; and 9 or 16% were Caucasians. There were 23 apprehensions resulting in dog bites during the period from January through May 1992. Fourteen of the 23 suspects or 61% were Hispanics; 5 or 22% were African-Americans; and 4 or 17% were Caucasians.

The Department answers that most crimes are committed in minority neighborhoods and that consequently most requests for canine search teams originate in those neighbor-

hoods. There is evidence to support that claim. But the data given above are significant and cannot be ignored. **We recommend the Department investigate and quickly eliminate any institutional bias in favor of deploying the dogs primarily against minorities.**

The canine unit is in many ways an outstanding asset to the Department and to the community. Since it was centralized in SEB in 1990, the unit has placed increasing emphasis on selecting the most qualified deputies and on rigorous training, both for the dogs and their handlers, and on revising the deployment policy in the face of litigation to reduce the number of apprehension-related bites. Law enforcement agencies from throughout the United States have looked to the Sheriff's Department's canine unit as a model to emulate. This report is not intended to detract from the unit's good work.

But, as noted above, there is room for improvement.

### *Recommendations:*

**1. The canine announcement should be mandatory in all cases.** If making the announcement would endanger deputies' safety, it is probably too dangerous for a conventional search, and a SWAT team should be requested. In addition, announcements are currently required in English and Spanish only "when necessary." The announcement should always be made in both languages. Even if the language of the suspect is known, bystanders may not share that language, and they too need to be warned of the imminent deployment.

**2. LASD supervisors should automatically review the performance of the canine unit whenever its bite ratio rises above 20 to 25%.**

**3. The LASD policy should provide that a handler determine at the earliest possible instant when a bite is occurring if the suspect is armed. If the suspect is not, the handler should immediately order the dog to release the suspect whether**

or not the suspect is struggling with the animal.

4. The LASD should eliminate any institutional bias to deploy dogs against minorities.

5. The LASD should regard dog bites as high on the force scale and specifically prescribe the use of less harmful means of apprehending suspects wherever feasible.



## 6. Administrative Claims

The filing of an administrative claim is a prerequisite to filing suit in Superior Court against the County for personal injury or other damage caused by the Sheriff's Department. It also is a vehicle for redress of grievances that can be filed as an alternative or in addition to a citizen's complaint. The filing of a citizen's complaint leads to possible internal investigation and discipline of an LASD employee. It does not lead to payment of money to the aggrieved citizen. The filing of an administrative claim, however, leads to the possibility of a payment by the County for the claimed injury. Under current practice, it does not usually trigger a disciplinary investigation.

The process for filing and reviewing an administrative claim is complex, and, in an average of 67% of the cases, leads to a denial of the claim. We looked to see how many administrative claims filed since 1988 alleging excessive force were denied. Of 944 such claims, 78% were denied out of hand. In contrast, administrative claims respecting damage to towed vehicles were denied only 35% of the time.

A comparison of two examples, the first hypothetical and the second actual, will demonstrate that there is a worse and better way to handle these kind of claims.

### *Example 1*

A citizen is strolling through a park when he is attacked and bitten by one of the Sheriff's canines that broke away from his holding area and ran into the park. The citizen is not badly hurt but is taken to the hospital by paramedics, where he is treated and released. The citizen is angry and calls the County of Los Angeles with his complaint. He is told that to make a claim, he can write or call the Executive Office of the Board of Supervisors or telephone any branch of the Sheriff's Department.

The citizen calls, and later that week, he receives a claim form and an instructional letter for processing his claim. He is told to give full details and to mail or deliver three white copies of the claim to the Hall of Administration in downtown Los Angeles.



The County has 45 days to respond to the claim. The citizen files his claim. It is reviewed and sent up to County Counsel's Office which sends a postcard informing the citizen that his claim has been received.

The supervising investigator in the County Counsel's Office receives the claim and prepares a Sheriff's investigative request. The request is then sent over to the Sheriff's Department where it is received by an officer who reviews the claim, determines which station or bureau was involved, and forwards it to the appropriate captain for review.

The request then arrives at the appropriate place to be reviewed by a captain who asks his staff to find out what happened. The captain returns the request with a recommendation letter to the forwarding officer who then makes a copy for the Sheriff's Department and sends the request and the recommendation back to County Counsel's Office.

The supervising investigator reviews the paperwork to determine if there are any gross errors which would merit a request for additional investigation. If he disagrees with the recommendation of the Sheriff's Department, he can request that the Sheriff's Department perform another investigation or, in rare circumstances, he may conduct or authorize an independent investigation by the County Counsel's Office. If he agrees with the Sheriff's recommendation, he fills out a recommendation disposition slip and forwards it to an attorney in the County Counsel's Office for review.

If the attorney agrees with the recommendation and it is a denial, then a denial letter is sent to the citizen. If it were determined that the claim should be paid, either a final settlement letter paying the full amount demanded would be sent or a settlement offer letter seeking to settle the claim for an amount lesser than the demand.

Forty-four days after his mishap, let us assume that the citizen learns that his claim was denied. He then calls his lawyer who reviews the facts and determines that he has a good case. At the end of the six month period allotted to bring a claim, the lawyer files a lawsuit seeking damages according to proof.

The complaint is served. Another attorney in the County Counsel's Office is assigned to handle the matter who contacts the Sheriff's Department to find out what it knows about the case. If the attorney locates the claim file, it will prove to be useless because all it generally contains is a letter recommending a denial of the claim.

Three years later, as trial approaches, there are no longer any witnesses or documents and no one can remember what happened. The attorney recommends settlement. The recommendation is accepted by the relevant county decision maker, and the Sheriff's Department concurs.

More than three years after the event, the citizen receives his check from the County of Los Angeles for \$75,000. It has probably cost the County and the Sheriff's Department at least another \$50,000 to defend the lawsuit.

In 1988, 1074 claims were filed involving the Sheriff's Department. In 1989, 1092 claims were filed; in 1990, 1350 claims were filed; and in 1991, 1434 claims were filed. Of these, the majority were routinely denied.

### *Example 2*

Recently, one of the LASD canines somehow got out of his holding area, jumped over a wall, ran into a park, and bit a stroller in the park. Sheriff's paramedics rushed the citizen to the hospital for medical treatment. Investigators from the Sheriff's Civil Litigation Unit (CLU) were notified and lost no time. They went to the hospital immediately, checkbook at the ready. The citizen was pleased that the Department was concerned and shared his feelings about the unfortunate incident. He agreed to settle for his medical bills, lost wages, and \$1000. He was issued a check an hour after his release from the hospital.

Example 2 actually happened the other day. Example 1, or variants thereon, have been happening for too long. This has resulted in a great waste of money.

The Civil Litigation Unit which quickly and competently dealt with the citizen is a

relatively new and innovative office within the Sheriff's Department headed up by Lieutenant Dennis Burns, Sergeant Mike Jones, 10 deputies and clerical help. Among other responsibilities, this unit oversees investigations of administrative claims that are filed with the County. Previously, this was the only thing this unit did.

Now, in addition to investigation of claims, the unit is proactive: As in the second example given, it will dispatch investigators to the scene and try to settle potential claims on the spot. Generally, this has only been done in relatively minor damage and personal injury cases, and we are not aware that it has been attempted in any wrongful force cases. Through May 1992, accelerated civil claim settlements have been made in only a few cases. Nonetheless, it is a good start, and we recommend that this program be expanded, and quickly. Another example will prove our point.

During the recent riots, Sheriff's Department detectives learned that several thousand dollars in looted merchandise was concealed at a certain house. They obtained a search warrant. Mistakenly, the warrant was executed at the wrong house. Two doors were broken down and personal property was damaged before the error was discovered. While the detectives went off to the correct house one block away, making several arrests and recovering the looted merchandise, representatives of the Civil Litigation Unit arrived at the house that had been mistakenly damaged. The property owner forgave the Department and was willing to settle the matter. A modest check was issued within days for the total amount of the damages. What could have become a civil claim, or a protracted and expensive lawsuit, or a citizen's complaint, was resolved quickly to the satisfaction of the property owner. It could not be more obvious that it is cheaper and better to resolve simple claims quickly.

It is also clear that the administrative claims process is in dire need of substantial reform. By denying nearly all claims out of hand, the County is being penny-wise and pound-foolish. True, not all administrative claims will ripen into lawsuits, and there is something to be said for waiting and seeing who really sues. But on the other hand,

a sensible risk management program, as practiced by any responsible insurance company, suggests that early intervention and speedy settlement will prove less costly in the long run. The Sheriff's Department does cost the County substantial sums in settlements of civil litigation. At least some of that cost should not be charged against the Sheriff's Department even if it was the conduct of the Department which gave rise to the claim: Rather, some of the cost should be charged to the County itself which has failed to come up with a rational risk management system.

### *Recommendations:*

**1. We recommend that the County of Los Angeles hire insurance experts to plan and implement an overhaul of the administrative claims process.**

**2. In the interim, we recommend other reforms which could result in savings. First, the cumbersome procedures described in Example I need to be streamlined.** On a weekly basis, Lieutenant Burns or his representative should sit down with an attorney in the County Counsel's Office with authority to settle and the two of them should come to a quick resolution with respect to any claim that the Sheriff's Department believes should be settled. The Sheriff should be recommending settlement in far more than 10% of the cases. The supervising investigator should be eliminated from the process on claims the Sheriff thinks should be settled, and the matters should be worked out directly between the Civil Litigation Unit and the County Counsel's Office.

**Second, the Sheriff should notify all unit commanders that they must immediately contact the Civil Litigation Unit if there is an incident which has the potential for an administrative claim or a lawsuit.** If a warrant is served and the front door of an innocent third party is smashed, send the CLU immediately to the scene with checkbook in hand. If a deputy accidentally fires his weapon and bullets lodge in the side of some bystander's car, call the CLU to come out and pay for the damage.

Third, the Sheriff's Department should send the CLU to each station to give a training program so that everyone in the Department is sensitive to the potential for claims and lawsuits, and knows how to get hold of the CLU whenever there is a potential claim. The resources it will take to expand the CLU and raise its visibility and its role will not only pay for itself quickly, but it will pay for itself again and again.

Fourth, the Department needs to keep careful track of claims and systematically preserve evidence that may be necessary in connection with an administrative claim or a potential lawsuit. Every administrative claim should be treated as a potential lawsuit. When the captain receives a claim to investigate, he or she should create a file for it at the station and a duplicate file should be created at the CLU. The file should be tracked so that it is possible to access it by a number of relevant approaches: the name of the deputy, the name of the claimant, the Executive Office file number, the County Counsel file number, the station involved, and so forth. Any physical evidence relevant to the claim should be specially tagged so that it can be associated with the correct claim and preserved until the claim has been settled or it is known whether a lawsuit arising from the claim has been filed within the statutory period. Obviously, if a lawsuit is filed, the evidence will need to be preserved longer. The names and addresses of witnesses, statements of witnesses, the names of Sheriff's Department personnel involved or present at the time, and any other information that is available at the time should be preserved in the file.

Fifth, the Department needs to take a proactive and conciliatory approach to claims. As explained in greater detail in our section on Citizen's Complaints, the first thing that should be done when a complaint is voiced is to offer conciliation: the officer involved should be in the same room with the complainant and the station captain should attempt a resolution of the matter right then and there.

If the first indication of trouble occurs in the field, the CLU should go to the scene. If the first indication of trouble is an administrative claim, the captain should review it,

not simply with a bias toward denying it but rather with a bias toward resolving the claim as quickly and cheaply as possible.

The station captain should also decide at the first possible opportunity whether to initiate any disciplinary proceedings from the incident or claim. There should be a box to check on the paperwork sent to the captain to indicate whether he or she desires Internal Affairs to open a file for an investigation either at the unit level or downtown. The station tracking system should be checked to see if this is the first or the fifteenth time that the deputy has been involved in a similar incident. And the current incident should be entered into the system that tracks incidents involving the given deputy.

**Sixth, if a lawsuit is filed, the complaint should immediately be reviewed to see if it was the subject of an administrative claim.** If the claims are cross-filed, this should not be difficult. The lawsuit and the administrative claims file should then be consolidated and tracked both at the station level and downtown. If there has not been an administrative claim filed, then files should be created both at the station and downtown and an investigation commenced. The investigation should be twofold: to preserve evidence, statements and names of witnesses, and to form a judgment regarding whether discipline is called for. Each captain should be held responsible for knowledge of all lawsuits, claims and citizen complaints arising from activity at his or her station. The records of each station as to the foregoing should be made available to the area commander or division chief reviewing the performance of that captain and should be specifically evaluated in the captain's review. Moreover, goals with respect to reducing claims, lawsuits and citizen's complaints should be part of each captain's annual plan negotiated with his or her area commander.

**Seventh, if a citizen's complaint is filed, it too should be reviewed to see if it was also the subject of an administrative claim.** The citizen's complaint should also be filed and cross-filed in such a way as to be able later to link it to an administrative claim or a lawsuit. If there has not been an administrative claim, then files should be created and an investigation begun.

**Eighth, the systems for tracking individual officers at the station level and downtown, the system for tracking citizen complaints, the system for tracking administrative claims and the system for tracking lawsuits all should be integrated and interactive so that a complete picture is available at any time.**

**Finally, the Department should conduct a thorough audit of the types of incidents that give rise to claims or lawsuits or complaints and take steps to reduce risk. For example, if most claims seem to arise out of the booking procedures at the station, then the LASD might consider mounting video cameras in the booking cages. It will act as a deterrent to overly aggressive conduct by staff at the station, and it will serve as a record to check whether an allegation is true or false. If MDT transmissions are useful in determining the circumstances surrounding claims, then the LASD might want to keep the transmissions for a longer period of time so they can be accessed if necessary. If video cameras should be mounted on the hoods of radio cars, then it should be done: Money will be saved in the long run. It may be a good idea for deputies to carry voice-activated tape recorders: If so, they should be made available.**

**In sum, the Sheriff's Department needs to raise the level of conscious response by its members to the threat of litigation and take steps to conciliate immediately; settle quickly; act defensively; and keep good records.**



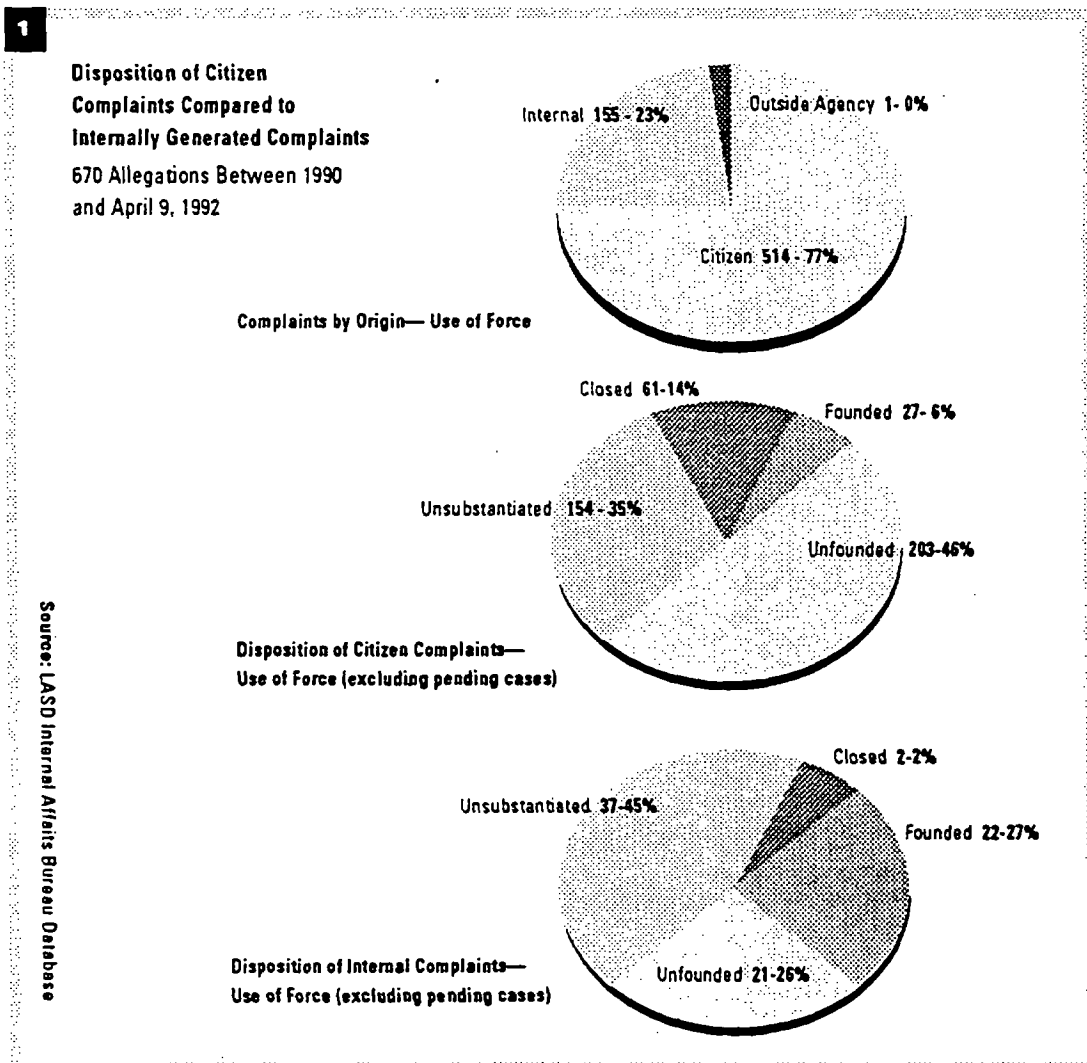




## 7. Complaints & Discipline

### *Complaint Investigation*

Many individuals and community groups believe that the Los Angeles Sheriff's Department is unwilling to discipline its officers. They complain that the public is discouraged from filing complaints, and that when complaints are filed, they are processed in such a way as to ensure that no action is taken against the charged officers. This perception that the Department "takes care of its own" is supported by statistics contained in the LASD's own computer databases. As Table 1 shows, although citizens generated roughly 77% of the excessive force allegations over the last two and a half years, only 6% were sustained. However, Department supervisors who alleged that their subordinates used excessive force



had a 27% success rate, roughly 4 1/2 times that of citizens. Our review of nearly 1,000 LASD investigation files and our interviews with both Department personnel and civilians also support the view that the LASD has not dealt adequately with citizen complaints of excessive force.

The LASD, as the most visible arm of County government, may receive many spurious complaints. Notwithstanding, our investigation uncovered explicit and implicit biases against civilian complainants at every level of the complaint process.

- Civilians attempting to lodge complaints at the charged officer's station are ignored, subjected to verbal abuse, and in some instances arrested;
- Investigations of citizen complaints of excessive force are not infrequently closed before completion - at times under highly suspicious circumstances;
- Most complaints of excessive force are investigated by a supervisor who works on the same shift as the accused officer. Such investigations are almost uniformly inferior and occasionally contain biased comments by the investigator;
- Citizen complaints corroborated by physical evidence and independent witnesses are frequently not sustained;
- The decision by the charged officer's captain that the complaint is not sustained goes essentially unreviewed;
- Many officers receive minor discipline for using excessive force.

Recent changes in policy and procedure failed to cure these problems. Indeed, some have exacerbated them. Substantial reform is necessary.

## *Overview of the Current System*

### **Initiation of Complaints**

A civilian may initiate a complaint regarding police misconduct by completing a Citizen Complaint Form.<sup>1</sup> Complaint forms are available only from LASD personnel. The Department encourages its employees to resolve citizen complaints informally without the filing of a formal complaint. Most complainants lodge completed complaint forms either with the concerned LASD unit or the Internal Affairs Bureau (IAB). Complaints sent to local elected officials are typically referred to IAB, which routes them to the accused officer's station for action.

In September 1991 the LASD added a 24-hour toll-free number — 1-800-698-8255 — for citizens to lodge complaints (and to offer commendations) regarding officer conduct. Since March 1992 officers throughout the Department receiving civilian complaints or taking hotline calls have been required to record the complaint on a Watch Commander's Service Comment Form. These officers are also required to offer a complaint form to the civilian or caller.

### **Initial Evaluation of Complaints**

Whether or not a citizen complaint results in a formal investigation depends in general upon the initial evaluation by the accused officer's captain. Upon receiving a complaint, the concerned captain orders a "supervisory inquiry" by the watch commander (usually a lieutenant) who was on duty when the alleged misconduct occurred. This inquiry generally includes reviewing the arrest report and speaking informally with the parties involved.

The captain then determines whether the citizen's complaint can be mediated. Mediation usually consists of explaining the officer's conduct to the citizen's satisfaction or, in some cases, having the officer offer an apology. A number of stations in the Department, such as Norwalk, Walnut and Lakewood have gone to great lengths to mediate

disputes and are in the process of developing formal mediation procedures and training. If mediation succeeds, the Department generally does not continue to investigate the officer.

Where mediation is impracticable or fails, the captain must decide whether the complaint has sufficient merit to warrant a formal investigation. If he decides not to proceed, the process again stops. The citizen has no right to appeal the decision that a formal investigation is unwarranted.

If the captain thinks that the officer's conduct may have been criminal, he may request, through his division chief, that a formal criminal investigation be conducted by the Internal Criminal Investigations Bureau (ICIB). Further administrative action is suspended pending the outcome of the criminal investigation. These investigations are conducted in the same manner as ordinary criminal investigations, and result in neutral investigative files which are presented to the Los Angeles County District Attorney's Office (D.A.'s Office). The D.A.'s Office then decides whether to proceed with criminal prosecution. This process occurs independently from the rest of the LASD. Between January 1986 and May 1992, ICIB investigated 57 cases of allegedly unlawful use of force. The D.A.'s Office accepted seven for prosecution. Convictions or guilty pleas were obtained in four of these cases.

In the vast majority of cases, however, captains inclined to take formal action will request a formal administrative investigation (FAI) rather than a criminal one. The captain also generally determines whether the investigation will be conducted by his station or by IAB. Since 1989, nearly 75% of all FAIs of excessive force have been conducted by supervisors at the charged officer's station.

Station investigations are usually conducted by the watch commander or watch sergeant on duty at the time of the alleged incident. Both must fit investigations into their other day-to-day responsibilities. Cases assigned to IAB are investigated by one or two investigators, depending on the complexity of the allegations.

As is the case with ICIB investigations, unit and IAB investigations are expected to be neutral packages of evidence. Investigators must impartially summarize the evidence in "Findings."

The investigator presents the FAI file to the captain of the station from which the complaint arose together with a list of the policy manual sections relevant to the complainant's allegations. The captain then classifies the case into one of the following three categories:

**Founded:** The allegations of misconduct are true; the officer is subject to discipline.

**Unfounded:** The allegations of misconduct are untrue; no discipline shall issue.

**Unsubstantiated:** The evidence is insufficient to determine the truth or falsity of the allegations; no discipline shall issue.

Since November 1991 there is no longer any automatic review of the initial determination that a complaint is Unfounded or Unsubstantiated.<sup>2</sup>

Discipline can only be imposed for a Founded Complaint, and may include the following:

**Written Reprimand:** A letter from the Sheriff criticizing the officer for his conduct is personally served upon the officer and placed in the officer's personnel file.

**Suspension:** The officer is relieved of duty without pay for up to 30 days.

**Salary Step Reduction:** The officer's civil service compensation level is reduced without reducing the officer's rank.

**Bonus Removal:** The officer is removed from a "bonus position," such as Field Training Officer, which entitled him to additional compensation.

**Reduction in Rank:** The officer is reduced one rank. For example, a lieutenant may be reduced to a sergeant, or a sergeant to a deputy.

**Discharge:** The officer is terminated from the LASD.

Captains have the power to reprimand their officers or to suspend them for up to 15 days. Suspensions of 16 to 30 days must be approved by the concerned region chief. Reductions in pay or rank and discharges must be approved by the two assistant sheriffs, the Undersheriff and the Sheriff.

On October 1, 1991, the LASD promulgated its first written guidelines for discipline. The guidelines, which cover 18 single-spaced pages, contain a thorough discussion of various factors that go into a decision to discipline. The guidelines state that an officer's past record of Unfounded, Unsubstantiated or Closed investigations may not be considered.

The guidelines also attach a four-page grid of sample disciplinary outcomes for various offenses. Nicknamed the "bail schedule," it serves as a nonbinding guide for managers. It also serves to notify officers of the discipline they can anticipate in the

future. The recommended discipline for force-related and harassment-related offenses is set forth in Table 2.

<b>LASD Guidelines for Discipline (Effective November 1, 1991)</b>			
<b>Misconduct</b>	<b>1st Offense</b>	<b>2d Offense</b>	<b>3d Offense</b>
Criminal charges of brutality with nolo contendere plea	Discharge		
Using force deemed to be unreasonable or unnecessary	5-30 days Suspension Discharge	15-30 days Suspension Discharge	Discharge
Inappropriate display or use of weapon	6-30 days Suspension Discharge	15-30 days Suspension Discharge	Discharge
Making derogatory, racial, or ethnic remarks to coworkers, subordinates, supervisors or the public	5-30 days Suspension Reduction	30 days Suspension Reduction	Discharge

## *Problems with the Current System*

### **Intake of Complaints**

For citizens wishing to file an excessive-force complaint, the logical place is the station of the accused deputy. Our review of investigative files and interviews with community leaders and individual citizens indicates that for many, the process of going to the involved officer's station is a negative and occasionally traumatic experience. We heard recurring complaints of the following:

- Civilians ignored or forced to wait for hours after requesting a complaint form;
- Spanish-speaking civilians erroneously informed that the station only accepts complaints written in English;
- Hispanic civilians asked to provide proof of citizenship before receiving a complaint form; and
- Civilians informed that as a condition for receiving a complaint form, they must provide their driver's license so that the LASD may determine whether they have any outstanding arrest warrants.

In an attempt to gauge the prevalence of such practices, we telephoned a sample of over 150 complainants who had alleged excessive force or harassment by the LASD. These were individuals who persisted in filing a complaint, and whose allegations were considered sufficiently serious to warrant the opening of a formal administrative investigation.<sup>3</sup>

Sixty complainants agreed to be interviewed. Of that number, 29 complained of mistreatment. Another 5 stated that LASD officers politely but persistently pressured them to drop their complaints. Specific examples of respondents' experiences include:



- Civilians repeatedly asking for a complaint form were informed that they may be arrested for interfering with the duties of a peace officer if they did not leave the station at once;
- Civilians were threatened that if they filled out a complaint form they would not be permitted to leave the station;
- Complainants received unwelcome visits and telephone calls from LASD officers, sometimes on an hourly basis;
- Several Complainants "struck deals" with watch sergeants and watch commanders in which charges of resisting arrest were dropped in exchange for withdrawal of their complaints; and
- The mother of a 15-year-old girl who was allegedly struck by a deputy during a traffic stop withdrew her complaint after being told by a station officer that her daughter would "undergo severe emotional stress" during the investigation which would include long, "very stressful" taped interviews of her daughter.

In addition, our review of FAI files and arrest reports uncovered several cases in which a person witnessing excessive use of force was arrested when he went to the accused officer's station to lodge a complaint. Without exception, the charges against these individuals were eventually dropped. In many cases, the citizens subsequently withdrew their complaints.

In one recent incident, several deputies from the East Los Angeles station severely beat and arrested two college students at a fundraising party for a street gang diversion program. A student who drove to the station to lodge a complaint was ignored for 30 minutes and then inexplicably arrested and booked for "lynching," an offense defined as snatching a person from the custody of a peace officer. The college student spent the

better part of the weekend in jail only to learn three weeks later that the charges against him had been dropped.

Although the LASD insists that such practices are relics of the "old days," many of the above examples were drawn from incidents occurring within the last 18 months. Moreover, deputies told us that despite the recent introduction of the Watch Commander's Service Comment Form and renewed emphasis on providing civilians with complaint forms, their peers continue to discourage the filing of complaints.

In addition, the toll-free hotline, while a potentially valuable alternative to lodging complaints at the accused officer's station, has not been adequately publicized. Many citizens and civic leaders were surprised to learn that such a hotline existed. Moreover, our staff discovered firsthand that the number is not even posted in all LASD stations and facilities.

## *Processing Complaints*

### **Complaints to station "disappear"**

Citizens we interviewed were generally not confident that their complaint form would receive careful attention. One citizen related how a station sergeant threw several complaint forms at her, pointed to a wastebasket, and promised that her complaint would be filed there after she left the station.

Current and former LASD officers say citizen concerns are well-founded. Several deputies and supervisors asserted that some captains may have no idea how many complaints are actually lodged at their station. A former LASD deputy stated: "The dumbest thing you can do is to file your complaint at the station. They'll bury it if they can. I've deep-sixed a few myself." A former LASD watch commander observed that a complaint filed at the station "is like a fish swimming upstream. It's got to clear the deputy at the desk, [then] the sergeant and the watch commander. By the time the captain shows

up [the next morning], there's nothing for him to see."

A former LASD officer related an episode in which a senior citizen telephoned his station to report witnessing a field sergeant beating a suspect with a sap (a small leather-covered club filled with 21 to 23 ounces of lead shot) immediately outside the emergency room of a hospital. The deputy who took the call assured the citizen that he would notify the watch commander of the incident. Instead, he telephoned the hospital and told the sergeant to "cool it" because someone had seen him. The incident was never formally investigated. Several deputies currently on the force confirmed that such cases are not unusual, particularly when the incident occurs late in the night.

#### **Decisions Not to Investigate or to Terminate Investigations Prior to Completion**

Citizen complaints of excessive force may not be investigated for other reasons. The accused officer's captain has in practice discretion to determine that no formal investigation of the complaint will ever be conducted. Although higher officials have the theoretical authority to open investigations, they do not routinely review the captain's decision not to open one. Citizens hoping to bypass the accused officer's captain by writing to IAB are disappointed to learn that the complaints are not acted upon by IAB but rather are forwarded to the accused officer's captain for review.

Investigations of excessive-force complaints may be short-circuited by a practice known as "busting." Officially, FAI files may only be "busted" (i.e., destroyed) if they are duplicates of existing FAI files. But non-duplicate files are nonetheless "busted" with some frequency.

Our staff sought to review all 56 files listed as busted on IAB's 1990-92 computer database. However, it found only 23 files which had not yet been destroyed. Of that number, only 6 were busted because they were duplicates of existing files. The remaining 17 files appeared to have been busted because the captain thought that the

allegations were spurious or that the complainant was uninterested in pressing forward. Because we could only find evidence of the contents of 23 of 56 busted files, we cannot state categorically that the sample we reviewed was representative.

Nonetheless, we were troubled that several of the 17 non-duplicate busted files raised serious allegations of misconduct. In one, the complainant alleged that a deputy maliciously ordered a police dog to bite him. The accused deputy's captain busted the file after one of his sergeants opined — without having conducted a thorough, formal investigation — that the dog had come to the rescue after seeing the complainant attack the deputy. The file contained no documented support of the sergeant's conclusion.

In addition to busting, an investigation of excessive force may be short-circuited by "Closure." The accused officer's captain or region chief may "close" an investigation of the officer if: (1) the citizen withdraws his complaint, (2) the subject officer tenders his resignation, or (3) "valid and sufficient reasons exist" for ending the investigation.

In some instances, the reason given was that the complainant only wanted to get the officer in trouble. In others, the complainant withdrew the complaint after being charged with an offense such as battery on a police officer. In others, the complainant appeared to withdraw the complaint in connection with a negotiated plea bargain. Investigations were also terminated because the complainant could not be found at a later time or refused to cooperate.

Some closed cases involved potentially meritorious complaints. One such case involved an investigation triggered by an inmate's telephone call to IAB. In his interview with IAB investigators, the complainant stated that he saw deputies wrestling with an African-American inmate. He heard one deputy in the scuffle yell, "Nigger, get the fuck down!" He then saw the deputies drag the inmate around a corner and heard them beat the inmate. The deputies later emerged from the corridor congratulating each other.

Before IAB could interview the charged deputies, department executives ordered the investigation to be closed. The asserted bases for closure were that (1) the jail Watch Commander's Shift Summary showed that the incident had been reported and (2) the

alleged victim had never filed a formal complaint.

We find it disturbing that Department officials would determine that complaints lacked merit before all the facts were in. Such conduct unacceptably compromises what should be an impartial investigative process.

## *Investigations*

### **Criminal Investigations**

Despite public perceptions that the LASD is incapable of adequately investigating its own officers, we found that the criminal investigations conducted by ICIB were uniformly thorough and fair. Instead, our concern in this area lies with the apparent disinclination on the part of the D.A.'s Office to prosecute excessive force cases involving the LASD. While the difficulty of winning such prosecutions was amply demonstrated by the recent verdict in the Rodney King trial, this does not fully explain the fact that in the past six and a half years, the D.A.'s Office has prosecuted only 7 of the 57 cases investigated by ICIB.

This disinclination to prosecute was vividly displayed with the D.A.'s treatment of the beating of Missouri truck driver Coy Willbanks by Norwalk deputies on February 27, 1987. The confrontation began when Willbanks, groggy from a long drive, refused to move his truck from a parking lot where he had been sleeping. It ended with four deputies beating Willbanks with metal flashlights and batons, causing permanent injury. The deputies charged Willbanks with "resisting arrest" and "battery on a peace officer." Although four witnesses reported that Willbanks was not struggling with the officers, the D.A.'s office pressed forward with charges against Willbanks and presented the deputies' story — that Willbanks kicked and fought with the deputies — to a jury. Within an hour, the jury acquitted Willbanks of all charges. Two jurors publicly commented that the deputies, and not Willbanks, deserved punishment. The D.A. did not initiate an investi-

gation or bring charges against the deputies, but on February 19 of this year, a federal grand jury indicted all four deputies for violating Willbanks' civil rights. The reluctance of local authorities like the D.A. to prosecute excessive force merits further study.

### **Administrative Investigations**

The vast majority of formal investigations against officers are conducted at the administrative rather than the criminal level. Our staff reviewed over 800 investigative files, including every available FAI regarding excessive force which was opened between January 1, 1990 and March, 1992. Because LASD officials freely admitted that pre-1990 investigations were deficient in many respects, we limited our review of pre-1990 cases to approximately 350 force investigations conducted between 1986 and 1989. Altogether we found many good and some superb investigations (especially those conducted by IAB), many others were cursory and some appeared designed to exonerate the charged officer. Listed below are some of the significant problems we encountered.

**Identified Witnesses not Interviewed.** In nearly 100 of the FAI files reviewed, there was no apparent attempt to interview witnesses identified by LASD officers or the complainant. For example, one 1991 investigative file contained a memorandum listing the names and telephone numbers of 16 witnesses to an alleged beating. The file contains no indication that any of these witnesses were contacted. The complaint of excessive force was not sustained.

**No Attempt to Identify Witnesses.** In roughly 50 of the files we reviewed, there was no apparent attempt to identify and interview readily available witnesses such as party goers or inmates. For example, during a 1991 investigation of an alleged jail beating, two of the charged officers stated that 25 to 30 deputies responded to the scuffle. However, the investigator's activity log disclosed no attempt to identify or interview those officers.

**Failure to Ask Key Questions.** FAI files contain only summaries, not transcripts, of witness interviews. Therefore, the reviewing officer, who does not have the time to listen

to audiotapes of the interviews, does not know which questions were and were not asked by the investigator. To evaluate the adequacy of the interviews and to test the accuracy of the witness summaries contained in FAI files, we conducted a random audit of more than 40 hours of interviews and compared them to the corresponding written summaries. In a disturbing number of instances, the investigator sought to elicit only information favorable to the charged officer. In one case, the complainant alleged that his leg was broken when it was stomped by several deputies. The involved deputies claimed that the fracture was the result of a flashlight blow to the complainant's "thrashing legs." In a taped telephone interview with the treating physician, the investigator asked only whether the fracture was consistent with a flashlight blow; he did not ask whether it was consistent with someone jumping on the complainant's leg. Although the LASD ultimately embraced the deputies' version of the incident, the County settled a subsequent lawsuit for a middle five-figure sum.

**Failure to Photograph Injuries.** We also found numerous cases in which investigators failed to photograph key evidence or simply took the wrong pictures. One FAI file concerning an alleged beating resulting from the execution of a search warrant at the wrong address, contains photographs of the exterior of the complainant's residence rather than the interior, where the alleged beating and property damage occurred. (The sole purpose of the exterior shots appeared to be to support the charged officers' claim that they made an honest mistake in entering the wrong home.) Many other files contained unhelpful photographs of a suspect's bandaged injuries.

**Failure to Name Additional Officers as Subjects.** Under current LASD policy, an investigator cannot add an officer as a "subject" of an investigation without permission from the officer's captain or region chief. A number of IAB investigators have complained that this policy permits captains and chiefs to limit what should be a neutral and thorough investigation. One IAB investigator referred us to an investigation in which the complainant alleged that several deputies knocked him to the ground with baton

strokes and then kicked him in the face. The emergency room physician found smudges of black shoe polish on the complainant's forehead. Although the investigation revealed that six deputies were present at the scene, only one was listed as a "subject" of the investigation because the captain and the region chief had refused IAB's suggestion to expand the investigation to include the other officers.

We found several other investigations in which officers listed as "witnesses" admitted using force against the complainant but were not added as "subjects" of the investigation:

- One "witness" officer admitted that he, and not the subject officer, had punched the complainant in the face. The subject officer was exonerated of misconduct, and the conduct of the "witness" officer was never reviewed.
- One "witness" officer admitted that he tackled the complainant and struck him in the back with a flashlight while a second "witness" officer admitted that he struck the complainant in the lower back with a sap. Neither officer was added as a subject of the investigation.
- One "witness" officer confided that he was in an "almost dreamlike" state as he repeatedly swung his flashlight at a citizen who was struggling with the two subject officers. He was not added as a subject of the investigation.

**Biased and Incomplete Presentation of Evidence.** Some FAI files span hundreds of pages. Many captains and lieutenants admitted to us that they simply did not have the time to read every page of every investigative file, let alone listen to audiotapes of witness interviews. To many, the most valuable item in the files is the investigator's "findings," a chronological summary of the evidence. Indeed, several lieutenants said that their captains read only the findings unless the incident looked "wobbly" or gave them "heartburn."

We found a number of investigations — particularly those conducted at the charged officer's station — containing findings which made biased statements or which failed to point out evidence corroborating the complainant's story. We also found that the



findings contained "admissions" by the complainant that appeared unlikely or that contradicted the complainant's initial written submission.

In some cases, there was subtle bias. Rather than presenting two sides of the story, many findings relied upon the charged officer's interview or the arrest report for the general narrative. Others contained subtle editorializing such as: "Deputy [A] defended himself by . . . ." or "Fearing that the complainant would attack him, Deputy [B] . . . ."

In several instances, the mask of neutrality simply fell off. The following excerpt from a unit investigation is illustrative:

*"Investigator's Note: I have been Subject [D's] Watch Commander for several months and have never received anything but laudable comments from citizens concerning his demeanor and actions. He is a youthful looking deputy who appears to have a very cheerful disposition. Based on the findings this investigator believes the allegations to be unfounded."*

Another unit investigator suggested in his findings that a gay inmate who needed medical treatment after three to four deputies allegedly struck him with a metal chain had simply gotten what he deserved:

*"[Complainant] was treated as any other homosexual would be treated who beats, kicks, and yells during the course of his processing through the court system."*

Other findings seemed to bend over backward to discredit witnesses corroborating the complainant's story. For example, one set of findings describes a bystander witness to a courtroom brawl as someone who "appeared to have some axe to grind that we don't know about."

While many findings were excellent in pointing out inconsistencies in statements of witnesses supporting the complainant's allegations, they routinely failed to note inconsistencies in statements of LASD officers. In one recent case, the findings reported that

according to a station sergeant, one witness he interviewed laughed and regretted his attempt to prevent deputies from beating a man lying near a sidewalk. However, the findings failed to point out the inconsistency between the sergeant's description and the following notes taken by the same sergeant during his interview with the "laughing" witness:

**Q:** *Why'd you get involved?*

**A:** *When I walked up this man was in the gutter being held down by two Deputies. I heard him yell "Please help me, God." That did something to me and I wanted to help him. I wanted him to know someone was there.*

**Q:** *What did you do then?*

**A:** *I walked up and yelled to him that I would be a witness for him. That's when the Deputy told me to get back.*

**Q:** *Did you move back?*

**A:** *I moved back about five (5) feet, but that's all.*

**Q:** *Then what happened?*

**A:** *The Deputy told me to move away and not get involved, but I wanted to see what was going to happen.*

**Q:** *Then what happened?*

**A:** *That's when the Deputy swung at me so I ran. . . . .*

"Lt. [A] then explained that a situation like this might have been better handled here at the station or by contacting a supervisor. [The Witness] stated he understood and thanked us for talking to him."

The complaint was adjudged to be "Unfounded."

Findings also routinely failed to mention physical evidence supporting the complainant's allegations. In one case, two deputies claimed that they had to defend themselves from two women who allegedly jumped on their backs and attempted to strangle

them. Although the findings made a point of describing both women as heavyset, they neglected to mention evidence that both also suffered from crippling bone diseases.

As with other troubling aspects of the investigative process, the LASD's official response is that the problems belong to the "old days." Our research indicates otherwise. Nearly all of the above examples were drawn from both unit and IAB investigations conducted within the last two years. We were particularly disturbed by the poor quality of a major IAB report issued in the middle of our investigation. The report concerned an apparently brutal beating by a deputy known throughout the department as a supervision problem. Review of the four-volume report suggests that the investigators apparently failed to read their own exhibits. Their findings (which span 15 single-spaced pages) relied almost exclusively upon the arrest report for their description of the incident and ignored the attached transcript of the court hearing in which the deputy recanted key aspects of the arrest report.

### **Adjudication of Investigations**

*"If 85% of the complaints are unsubstantiated, something's wrong with the system."*

— LASD Captain

*"To tell you the truth, about 20% of our cases come out like, 'Huh? How could they possibly not nail the guy?'"*

**Q:** *"Do things like that have an effect on morale around here?"*

**A:** *"It can get to you sometimes."*

—IAB Officer in interview with Judge Kolts's staff

As Table 1 points out, only 6% of citizen complaints of excessive force tracked by the LASD for the last two and one half years have been sustained. This extremely low success rate warrants serious attention.

For a variety of reasons, the successful imposition of discipline against officers for

use of excessive force represents the most difficult disciplinary issue confronting this or almost any police agency. There are inherent problems because the use of force is often unavoidable, and the question of its reasonableness can be a very difficult one. For example, the initial force used by the deputy may be mild, but may have increased in response to combative or uncooperative conduct by a suspect. If there is no probative physical evidence, it may turn upon a credibility determination between the deputy and the suspect.

A further complication is that in a straight credibility contest, the suspect/complainant may be far from an ideal witness. For example, he may have such a long and unsavory criminal record that it would take unusual prosecutorial zeal to depend upon the persuasiveness of his testimony alone to uphold discipline against the deputy.

A well known "Code of Silence" among officers can readily add one more level of complexity, especially where the suspect/complainant is regarded as unsavory or a "slime."

In addition, there are difficult practical issues. For example, the incident may involve a decision as to whether to proceed criminally or administratively. This may turn upon the practical consideration of "should we require the deputy to talk about the incident" recognizing that once he is "ordered to make statements, the ability to criminally prosecute is severely, if not irreparably, damaged," in the words of a high-placed LASD official.

In evaluating the adjudication process, we first turned to the investigative materials available to the reviewing officer and compared them with the result reached. We then next reviewed a brief discussion of the facts as found by the reviewing officer. Finally, we interviewed investigators, captains and region chiefs.

We note at the outset that we found widespread confusion within the Department about the applicable standard for proving allegations of misconduct. The majority of captains we interviewed erroneously believed that the burden of proof was "beyond a reasonable doubt," rather than the far less exacting "preponderance of the evidence" standard actually required by the Civil Service Commission.

This widespread misperception may account for a good number of the "Unsubstantiated" dispositions. It does not, however, explain the recurring failure on the part of reviewing supervisors even to address evidence which undercut the officers' version of events.

**Ignoring Physical Evidence.** Many captains and region chiefs simply omitted discussion of physical evidence contrary to their findings of fact. In one recent example, a deputy fatally shot a suspect he claimed had faced him with a weapon in his hand. However, several eyewitnesses reported that the suspect was shot with his back turned. The captain accepted the deputy's story, without accounting for (1) the fact that two rounds struck the suspect from the rear, and (2) the fact that all bullet trajectories described in the coroner's report fully corroborated witness accounts that the suspect was in the process of turning away from the deputy when he was shot.

In addition, we found investigations in which the actions attributed to the victim by the reviewing officer seemed physically impossible. In several cases, persons whose spinal cords have been completely severed were described as performing a range of "furtive" actions after the assault.

The growing (and laudable) practice of photographing victims does not yet appear to play a real role in adjudication of excessive-force complaints. In one 1991 case, the complainant and several witnesses claimed that a deputy had repeatedly beaten the complainant across the back with a metal baton. The captain accepted the deputy's denial of this allegation without attempting to account for a color photograph in the investigative file which clearly showed horizontal bruises on the complainant's back.

**Discrediting witnesses.** LASD officials agree that the classic example of an "Unsubstantiated" complaint is the "one-on-one" confrontation at a deserted location in which it is the officer's word against the civilian's. We found many cases where reviewing officers refused to sustain allegations even if supported by numerous independent witnesses. In one recent shooting, department officials accepted the word of the

involved deputy over that of nearly 20 witnesses, several of whom were tourists with no stake in the outcome of the investigation.

In another incident, an emergency room nurse, a paramedic and a hospital clerk reported seeing a deputy repeatedly punch and kick his prisoner without provocation and then slam the prisoner's head onto his patrol car. The complaint of excessive force was deemed "Unsubstantiated" because this testimony was "offset" by denials from both the deputy and the prisoner, who incidentally was so intoxicated that later he could not recall being at the hospital in the first place.

In other cases, minor inconsistencies in witness statements were deemed sufficient to render a complaint "Unsubstantiated." One complaint that deputies Y and Z beat a civilian with their flashlights was deemed "Unsubstantiated" because neither the complainant nor a witness correctly identified both deputies Y and Z. However, the complainant had identified deputy Y, the witness identified deputy Z, and both Y and Z admitted being at the scene.

## **Discipline**

The LASD rarely sustains civilian complaints of excessive force. Of those complaints it does sustain, many result in discipline which appears to be far too lenient. As Table 3 shows, most citizen complaints of excessive force sustained the last three years result in suspensions of 5 days or less. Given that the standard punishment for denting a patrol car bumper is a 2-day suspension, it is clear that the LASD does not adequately punish its officers who use excessive force.

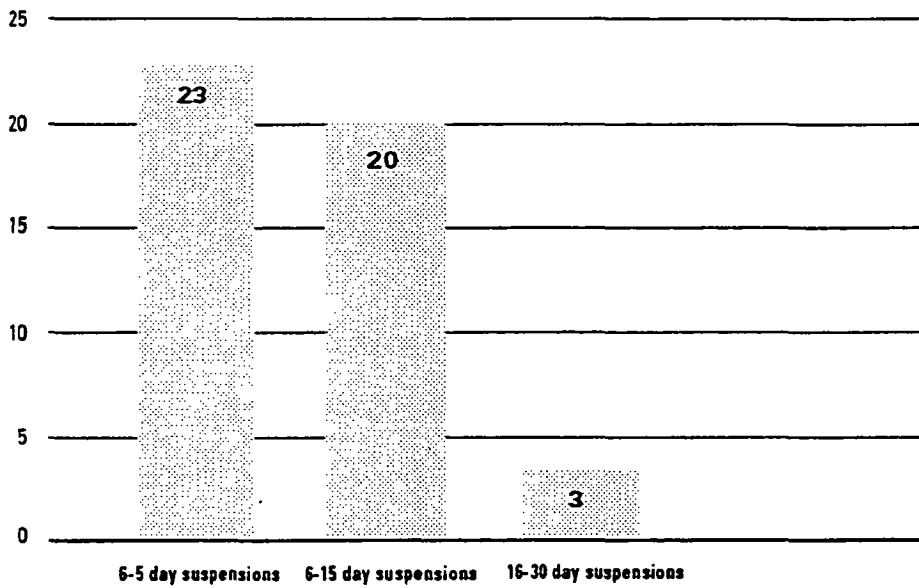
Of particular concern is lax punishment even when the civilian posed no threat or was unable to protect himself from the officer's blows.

One 1991 case involved an inmate who had recently had his left hip and buttocks removed as the result of an automobile collision. While unwrapping a throat lozenge (in violation of a jail rule that inmates walk with their hands in their pockets) the inmate

3

### Suspensions of LASD Officers for excessive Force

46 total suspensions logged by the LASD "Clipper" database between 1990 and April 1992

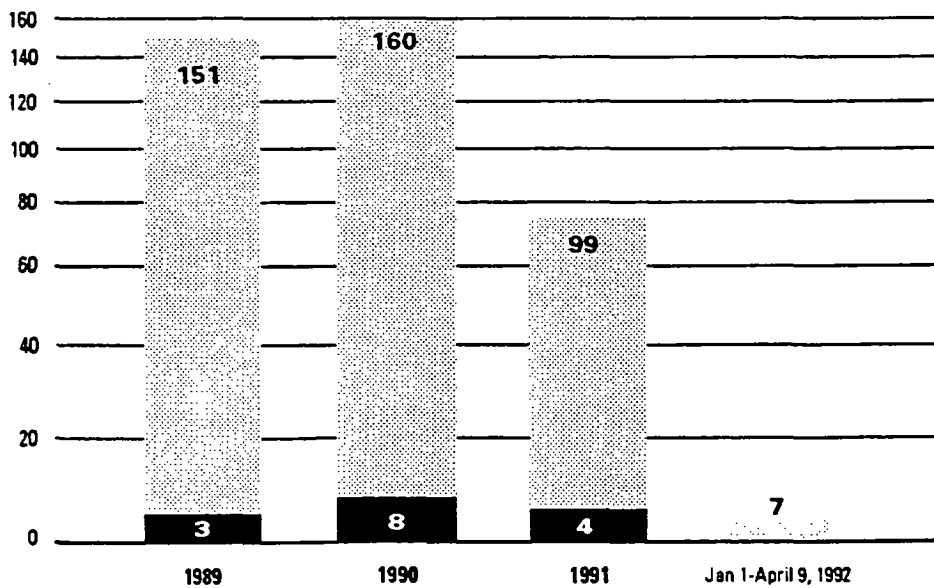


Source:  
LASD Internal  
Affairs Bureau  
Database

4

### Discharges of LASD Personnel

423 total discharges tracked by the LASD "Clipper" database between 1989 and April 1992



■ Non use of force  
related discharges  
■ Use of force  
related discharges

Source:  
LASD Internal  
Affairs Bureau  
Database

was kneed several times in the buttocks by a 6-foot 3-inch 215-pound deputy. The blows caused the inmate's surgical wounds to reopen. The deputy claimed that he kneed the inmate because the inmate "tensed up" when ordered against the wall, causing the deputy to fear for his safety. He was suspended for only four days.

The LASD has been particularly lax in its discipline of officers found to have lied to investigators about force they used or witnessed. One officer repeatedly lied to criminal investigators about his involvement in a 1990 beating of a handcuffed prisoner. In his first interview, the officer stated that he neither saw nor used any force on the prisoner. One month later, when ICIB investigators confronted him with evidence that he was present at the beating, he admitted lying in his first interview. He further admitted that he kicked the prisoner twice and that he saw his partner hit the prisoner. However, he added that such force was necessary because the prisoner was attacking them. When ICIB investigators returned the following week with further evidence, the officer admitted that he had lied during both of his previous interviews in order to protect his partner. He then admitted that the prisoner was not resisting when beaten. The officer received only a 5-day suspension.

In another case, a deputy kicked an inmate who was making noise on a bus and then squeezed the inmate's testicles until the inmate began to cry. The deputy did not report the incident. Although the captain stated that he was "incredulous" upon hearing the officer claim that he did not know that squeezing testicles constituted "reportable force," the officer received only a 5-day suspension for excessive force and failure to report it.

The LASD responds by arguing that it has recently increased the amount of punishment handed out for excessive force. It points out for example that between 1989 and April 1992, it discharged a total of 15 officers for excessive force. This number is small, however, when compared to the number of discharges for misconduct which is unrelated to excessive force. (See Table 4). Moreover, as the foregoing examples of recent discipline indicate, the LASD continues to punish officers lightly even for egregious beatings.



We do commend the LASD for establishing written guidelines for disciplining officers and will be interested to see if the guidelines, effective November 1, 1991, have the effect of increasing punishment of officers using excessive force.

As the foregoing discussion demonstrates, the LASD has been unacceptably lenient in punishing officers using excessive force. A further problem is that during the grievance process, the LASD often reduces the punishment it originally intended to hand out. Obstacles, real or perceived, to unilaterally imposing discipline include the opposition efforts by the unions; the occasional tendency of civil service hearing officers to mitigate the discipline in accordance with their views of appropriate or just discipline; inconsistency in levels of discipline imposed for the same conduct; the argument that a past practice has emerged which, allegedly, created a historical level of discipline which ought not be changed; and the inherent tension that is in every police agency when the discipline and remedial actions the agency has taken are used against the agency by plaintiff's attorneys in a subsequent civil trial. Thus, good faith efforts at correction may become a weapon against the agency in a court room setting, where high stakes damage awards are involved.

Notwithstanding the above, the Department has, in prior years, a good track record in disciplinary matters before the Civil Service Commission. Departmental sources estimate that in the 1970's the vast majority of cases were won at the Civil Service Commission but that this has been gradually declining in recent years. Recent statistics, however, are inconclusive. For example, we reviewed 10 instances in 1991 where the LASD proposed a discharge. All 10 were appealed, 8 to the Civil Service Commission. Not one has been concluded. Two were appealed to arbitration, but involved probationary officers, and arbitrability was denied. In addition, two deputies were discharged prior to their reinstatement pursuant to a ruling of a Civil Service Commission hearing officer.

This is not to suggest that there are overwhelming barriers to upholding discipline: Indeed, the Department's investigatory resources outstrip that of most employers.

Rather, it is to suggest that excessive-force cases raise more complexities than almost any other disciplinary matter, and that such cases may require much more preparatory effort and care.

The problem of excessive force can be attacked from many directions, for example, recruitment, training and counseling. The disciplinary process is an obvious avenue of deterrence. **However, it will not be an effective deterrent if the Department lacks confidence in its ability to make the discipline "stick."** In that connection, **there is the general impression that management of the LASD is willing to significantly mitigate discipline during the grievance process.** If this becomes perceived as standard practice, there is little or no incentive for the deputy not to appeal any and all discipline.

There are many tactical considerations which are involved in such decisions, but where the circumstances warrant it, the possibility of increasing the discipline at, for example, the third step should not be overlooked. In short, it should not be a one-way street. As long as the obstacles seem overwhelming and confidence is lacking, the inclination to compromise and mitigate will increase, and the ultimate message is less deterrence than the Department would want.

The first step is to create an appropriate atmosphere. Fully communicating its policy and philosophy of increased intolerance toward excessive or gratuitous force, resolutely and frequently, can have a very worthwhile practical effect. The standard by which arbitrators or other triers of fact assess whether or not the use of force was excessive, may vary from community to community. If a particular community has a clearly enunciated philosophy of intolerance of excessive force, that may be a persuasive factor in upholding discipline in particular cases. (See award and opinion of arbitrator in *City of Garden Grove* AAA Case No. 7-72-390-0163-88, wherein the arbitrator noted that the particular police department's philosophy bolstered the arbitrator's reluctance to substitute his own judgment for that of management officials in determining the severity of discipline.) In short, it can assist a trier of fact in assessing the level of incompatibility of the grievant's alleged conduct with

the standards of the department. In contrast, a community known to be tolerant of excessive force may find it more difficult to make the discipline "stick."

Presently, the Department is perceived by some as vulnerable to arguments about past practice (however subjective and sketchy). **However, the Department is not barred from a renewed emphasis upon its intolerance of excessive force.** The Department is not forced to abandon its goal simply because, in a department of thousands of members, there have been some inconsistencies in the imposition of discipline. For example, the Memorandum of Understanding with the Union (MOU) specifically provides:

*"The waiver of any breach, term of condition of this Memorandum of Understanding by either party shall not constitute a precedent in the future enforcement of all its terms and provisions."*

While the vast majority of disciplinary appeals go to the Civil Service Commission rather than to arbitration pursuant to the MOU, this provision does help dispel the notion that because variations in the level of discipline, the lowest level of discipline becomes the standard.

A vital aspect in communicating this philosophy is in the training sessions for recruits. With certain qualifications, our staff found two new Academy lectures on the legal and moral implications of excessive force to be encouraging. The presentations of the lieutenant and sergeant reflected an enthusiastic dedication to inculcate the appropriate philosophy. If this is typical of what can be expected, the recruits will certainly get the message.

However, our staff found no evidence that the philosophy communicated to recruits at the Academy is also being communicated up the chain of command. The danger is that many superior officers are not hearing the message that is being communicated to the recruits in an area where coordinating the message is essential.

On the other hand, there is a legislative development which would obviate this entire effort. AB 2067, passed by the California General Assembly, would actually codify the unwritten "code of silence." It would severely limit the ability to question police officers about unlawful conduct that they observed on the part of other officers. This legislative effort, dubbed the "Rogue Cop Protection Bill" by the Sacramento Bee (February 3, 1992), was passed by the Assembly by the lopsided margin of 58-5, despite the major effort by Sheriff Block to rally support against it.

Another "legislative" factor in disciplinary cases before the Civil Service Commission is Rule 4.11 which provides:

**"Testimony of Petitioner.** In hearings on discharges, reductions or suspensions in excess of five days, the petitioning employees shall not be required to testify, but may be cross-examined as to any matter relevant to the hearing if the petitioner takes the stand voluntarily. In any other type of hearing the petitioner may be called and examined as if under cross-examination."

That rule prevents the Department from calling the grievant employee as an adverse witness. Thus, the witness has a much better opportunity to shape and tailor his defense to the testimony of the Department's witnesses. (If the employee were to be required to respond to certain questions at the outset, it should, of course, be subject to his counsel's right to defer cross examination until later in the case.) Moreover, certain facts may be uniquely within the knowledge of the employee, so that calling the employee as an adverse witness at the outset can save a great deal of hearing time by obviating the need for other witnesses. In any event, the desirability of amending Rule 4.11 deserves consideration.

In the disciplinary hearings themselves the grievants are usually represented by counsel (and by attorneys who specialize in this area). In contrast, the Department has not been represented by attorneys in disciplinary matters. This is not to suggest that experienced non-attorneys cannot handle certain disciplinary matters as competently as attorneys, or

more competently than inexperienced attorneys. Indeed, the LASD was ably represented by a non-lawyer for many years. However, the issue is broader because the pre-hearing preparation of a case may be affected by the familiarity with new developments, not only in the public sector labor law area, but in the private sector as well.

Where important cases are involved, it is difficult to dismiss the effect of utilizing such resources as an experienced specialist in labor law, even if it is just for assistance in the pre-hearing preparation and strategizing of the case. In some current cases, the LASD is using an attorney, and this is a positive step.

Moreover, the Civil Service Commission hearings often involve extensive arguments by attorneys for employees seeking to restrict the admissibility of certain evidence. Despite the express liberality concerning rules of evidence, mandated by Rule 4.10, these disputes persist. If nothing else, an attorney is likely to be more comfortable in evidentiary disputes than a non-attorney, and potentially more effective on those types of issues. It is our impression that the Department has not afforded such resources to its advocates. In particular cases, it could result in providing an edge to grievants who, in important cases, invariably utilize those resources on the other side. **The Board of Supervisors should designate additional funds earmarked for a lawyer to represent the Department in Civil Service proceedings.** Any consideration of these issues that does not account for a vigorous contest by the representatives of the disciplined officers is myopic. All of the media attention, and the demands for greater discipline, are likely to result in a redoubling of effort in defending the officers by their attorneys and their labor organizations. It is as unrealistic to expect the unions to be unassertive to the rights of their "clients" as it would be, for example, to have such expectations of the ACLU or Legal Aid. **The LASD needs and deserves its own first-class legal counsel representing it in Civil Service hearings.**

An inherent tension, readily acknowledged by this and any police agency, is the use of its own investigative efforts by plaintiff's counsel in court suits against the agency. In

a real sense, the Department runs the risk of making the case against itself for plaintiff's counsel in a damage action against the Department. Nonetheless, the Department's position, in the words of a senior official, is to "take any and all remedial action necessary, even in light of increasing liability ramifications." Sheriff Block has stated: "My first obligation in this regard is the management of this Department."

It is difficult to believe that, despite this position, the possible use and abuse by plaintiff's counsel of the Department's own work product does not have the potential for inhibiting an investigation. The specter of plaintiff's counsel utilizing, for example, a thorough investigative effort by the Department regarding an officer engaged in excess force, against the Department, to extract a seven-figure jury verdict, is not an attractive picture for many officers to conjure up. Equally unattractive is the possibility that plaintiffs will use the efforts the Department is making to improve its prevention of excessive force, to argue to juries that these efforts merely demonstrate the pervasiveness of such conduct. This obviously has the potential for misuse and abuse by plaintiffs. Legislative solutions to the dilemma would be helpful.

There is a positive note to be sounded for the future, and that is that the risk of punitive damages should be reduced by the efforts now being taken by the LASD. A combination of efforts to attack the problem of excessive force in the recruitment, training, promotion and disciplinary process should greatly enhance the argument that punitive damages should not be imposed on the LASD.

### *Recommendations Regarding Filing of Complaints:*

**We recommend a stop to any discouragement by any member of the LASD to the filing of a citizen's complaint. To that end, we recommend that a complainant should be able to receive and fill out a citizen's complaint form against the Sheriff's Department at a variety of County facilities in addition to a Sheriff's station**

including, but not limited to, district offices of the members of the Board of Supervisors and such other public facilities as the Board of Supervisors may determine. The complaint forms should be available in Spanish, English and any other languages widely spoken within the County. Placards providing information in Spanish, English and these other languages about filing citizen's complaints should be prominently displayed at each Sheriff's station along with the hot line telephone number and information about using the hot line. Each citizen's complaint received in person by a member of the Sheriff's Department should be legibly signed, dated and time-stamped by that member of the Department.

We further recommend that the complaint form should have a specific question asking the complainant if the complainant was discouraged by any member of the Sheriff's Department from filing a complaint or was harassed or threatened in any way by any such person in connection with the filing of the citizen's complaint and if so, by which member of the Sheriff's Department. If the answer is yes, a separate unit level investigation should be automatically and immediately commenced of the person accused, irrespective of any decision to investigate the main allegations of the citizen's complaint. If the accusation respecting discouragement of filing a complaint contains allegations of force or verbal abuse, IAB should automatically and immediately commence a separate investigation of those allegations irrespective of any decision to investigate the main allegations of the citizen's complaint.

We recommend a stop to the practice of some officers to refuse to identify themselves to possible complainants. To that end, we recommend that each member of the Sheriff's Department be required to carry business cards and to hand them out immediately and without protest to any person who requests one. Similarly, each member of the Department should immediately and without protest provide his or her complete name and employee number to any civilian

who requests that information. Placards announcing these policies should be prominently displayed in English, Spanish and other widely spoken languages at each station. There should be a question on each complaint form asking whether the complainant was refused a business card or identification by any member of the Department involved in any allegation. If the answer is yes, a unit level investigation of that allegation will automatically and immediately be commenced.

We recommend a stop to the reported practice by some officers of contacting complainants or witnesses to discourage the filing or prosecution of complaints. To that end, we recommend that no member of the Department other than the assigned investigator or investigators should be allowed to contact any complainant or witness in person or by telephone or otherwise pending final resolution of the investigation. Prior to the conclusion of any interview by any investigator with any witness or complainant, the investigator should ask if the witness or complainant was at any time contacted by any member of the Sheriff's Department after the filing of the citizen's complaint or was contacted by any member of the Sheriff's Department to discourage the filing of a complaint. If the answer to any of these questions is affirmative, separate IAB and ICIB investigations should immediately and automatically be commenced.

We recommend a stop to the Complainant's inability to ascertain the status of the investigation of a complaint. To that end, we recommend that the Board of Supervisors name a civilian to whom a copy of each and every citizen's complaint should be forwarded within two days of receipt by the Sheriff's Department. That individual should keep a log of such complaints and should be empowered to ascertain the general status of any investigation upon the request of any complainant and shall report the same to the complainant.

We recommend a stop to the present situation where the complainant never learns what discipline, if any, is imposed upon a founded complaint. To that end, we



recommend passage of whatever legislation or amendment to whatever labor/management agreements may be necessary to achieve that result.

As described more fully in our section on accountability, we believe that many of the deficiencies in the investigation and adjudication of excessive-force complaints can be ameliorated by introducing some civilian oversight of complaint resolution.

### *Recommendations Regarding Investigations:*

The Internal Affairs Bureau (IAB) should have the sole authority to conduct formal administrative investigations (FAIs) regarding (1) citizen complaints of unnecessary and/or excessive force; (2) citizen complaints of harassment on the basis of race, sex, religion, ethnicity or sexual orientation; (3) officer-involved shootings; and (4) deaths which occur during custody. These investigations should be completed in a timely fashion. The Board of Supervisors should earmark additional funds for the expansion of IAB. As discussed above, our staff found that although IAB investigations were not problem free, they were markedly superior to unit investigations. IAB investigators have both the time and the experience to conduct full and thorough inquiries. Moreover, their investigative reports are reviewed by a lieutenant for thoroughness and fairness. The appearance of integrity of an investigation is enhanced when it is performed by IAB rather than by a sergeant or lieutenant performing an investigation of a fellow officer at the same station.

Perhaps more significantly, the shift of these investigations to IAB will enable watch commanders and watch sergeants to devote more time to supervising their officers. As one unit commander complained, "While you have one lieutenant in his office investigating one complaint, two more are happening out on the street."

At the same time, it will be necessary to expand the resources and personnel in IAB.

A frequent, serious complaint by deputies is that IAB takes an extremely long time to complete investigations. The uncertainty hanging over the head of a deputy and the possible cloud on the deputy's reputation can produce unintended cruel results, to say nothing of distracting a deputy from performance of duties and increasing anxiety and worry. For these reasons, investigations must be quick as well as thorough and fair. IAB is already seriously overburdened. We are cognizant that our recommendations will only add to that burden. Accordingly, we strongly urge the Board of Supervisors to earmark additional funds for expansion of IAB.

**IAB's investigation of force- or harassment-related complaints should be shielded from pressures from within and without the LASD. To that end, no one in the LASD should have the authority to narrow the scope of an ICIB or IAB investigation. However, a captain requesting an investigation and that captain's superiors may request that ICIB or IAB expand the scope and direction of the inquiry.**

**The captain of IAB should, upon reviewing the investigative file and conferring with the IAB investigators, make a recommended finding of whether the complainant's allegations are Founded, Unfounded, or cannot be resolved.** Our investigation revealed that station captains often lack the time to conduct a thorough review of the investigatory materials. In a given day, they must oversee the management of a unit with anywhere from 100 to 300 officers. In interviews with our staff, many confided in time that they often called the IAB Sergeant who conducted the interview to get a "bottom line" impression. Virtually all agreed that they did not spend as much time as they would like reviewing investigative files. Some captains recommended that IAB supply a recommendation. Others opposed it.

We believe that captains should play the central role in determining the appropriate discipline for Founded complaints of excessive force. They are or should be familiar with the officer's work history and performance. We do not believe it undercuts their authority to consider an IAB recommendation as to whether a complaint is Founded.

A properly insulated IAB is particularly well-suited for that task because it has interviewed the witnesses, can therefore best judge credibility and has the perspective and overview to do a detached and professional appraisal. We believe that a station captain should be free to disagree with IAB's recommended disposition, but if he or she does so, should carefully articulate the reasons. All resolutions should continue to be subject to review by the commander of Office of Professional and Ethical Standards, who should retain the authority he presently has to express disagreement with a result if he so chooses.

It is a common practice among a number of police departments, including Chicago, Philadelphia and San Diego for the investigatory arm of the force to make an initial recommendation as to the result of the investigation. We believe this system can work in the LASD as well.

**Citizen complaints should be fully investigated to the satisfaction of IAB, even if the citizen withdraws his complaint. The LASD should satisfy itself that each complaint is investigated to the point that an informed and fair decision can be made on the merits of the complaint, and that any failures to comply with department policy are addressed adequately, regardless of an apparent change of heart on the part of the complainant. Accordingly the current practice of "closing" or "busting" investigations when the citizen loses interest in pressing charges must cease.**

**IAB findings should list the name of the station supervisors on whose shift the alleged incident occurred. As it stands now, the LASD has no data to measure the performance of its sergeants and lieutenants in curbing excessive force. This must change if supervisors are to be held accountable for the actions of their subordinates.**

**Each officer's personnel folder should contain copies of (1) all citizen complaints and the resulting IAB Findings and Final Dispositions, regardless of disposition; and (2) reference to all lawsuits in which the officer was named as a**

defendant.

IAB should investigate all allegations of force or harassment made in civil claims and lawsuits, even if the plaintiff never filed a citizen's complaint.

The practices of "closing" files prior to the conclusion of an investigation should cease. The practice of "busting" files prior to the conclusion of an investigation should cease. A duplicative file should be retained with a notation that the investigation was consolidated with another named file. All investigations should be concluded with one of the following dispositions:

**Founded:** A preponderance of the evidence establishes that the allegations are true or that a preponderance of the evidence establishes misconduct even if the specific misconduct is not alleged by the complaint.

**Unfounded:** A preponderance of the evidence establishes that the allegations are not true.

**Exonerated:** A preponderance of the evidence establishes that the facts occurred as the complainant alleges, but that the officer's actions were lawful and proper.

**Unable to be Resolved:** There is insufficient evidence to establish, by a preponderance of the evidence, whether the allegations are true or false or whether the officer otherwise acted properly or improperly.

### *Recommendations Regarding Discipline:*

The Department should emphasize by every means possible that it does not tolerate excessive force. Every word and action of the Department must reinforce that policy.

In order to maximize the enforcement and deterrence functions of the disciplinary process, the Department should vigorously prosecute disciplinary cases, refrain from mitigating discipline during the process and consider increasing the discipline at later stages.

**Amendment of Civil Service Rule 4.11 should be considered so that the Department can call the grievant employee as an adverse witness at Civil Service hearings.**

**The Department should be represented by first-class legal counsel in all Civil Service proceedings.**

**The Department should seek legislative solutions in order to assure that the Department's internal force investigations and efforts to reduce excessive force are not inhibited by fear of misuse or abuse.**





## 8. Officer-Involved Shootings

### *Criminal Investigations*

*"Firearms shall be regarded as defensive weapons and used only when the individual Deputy is compelled to do so by existing circumstances."* — LASD Manual of Policy and Procedures

*"When law enforcement officers fire their guns, the immediate consequences of their decisions are realized at the rate of 1,500 feet per second and are beyond reversal by any level of official review."* — Lieutenant Ed McErlain, Huntington Police Department<sup>1</sup>

**Officer One:** *He's got my foot! He's got my foot! Shoot him! Shoot him! Get off him! Get off, I'm going to shoot him! [unintelligible] Shoot him! He's got my foot!*

**Officer Two:** *No! No! No! No! Wait, wait, wait, wait. Wait. Wait.*

*[gunshots]*

**Officer Two:** *Damn it!*

*[more gunshots]*

—Audiotape of fatal shooting recorded by LASD deputy

No aspect of police work attracts more attention than an officer's decision to fire his gun. The consequences of deadly force demand that the LASD thoroughly appraise how and why a shooting occurred each time an officer purposely fires a gun, whether or not someone is hit.

We acknowledge that suspects are often violent and well-armed. Nonetheless, we reviewed enough cases of officer-involved shootings of unarmed suspects — particularly of persons shot in the back — to raise concerns that LASD officers may be involved in shootings because of poor training, impatience and panic. Table 1 compares officer-involved shootings to deputies shot in action.

Until last year, if the District Attorney declined to prosecute an LASD deputy who shot a suspect, the LASD generally did not proceed administratively against the officer. The



**Department policy regarding the use of firearms is set forth in § 3-01/030.30 of the LASD Manual of Policy and Procedure, which is set forth below in relevant part: In using firearms, deputy personnel shall be aware that all situations cannot be anticipated and, therefore, generalization is unavoidable.**

**Firearms or force likely to produce great bodily harm shall not be used in the process of arresting any person solely for a misdemeanor.**

**Deputy personnel shall not fire at a fleeing felony suspect unless the officer has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officer or others; nor is there any justification, under most circumstances, to fire at a fleeing vehicle wherein the lives of innocent persons may be endangered.**

**Deputy personnel are not to be restricted in the lawful performance of their duties. They have the positive duty to use firearms whenever the necessity exists in the protection of their lives, or the lives of others.**

D.A. saw fit to prosecute only one shooting in the past decade. Hence, in the vast majority of shootings, there never was an investigation to see if administrative discipline was warranted. The LASD has recently altered this practice and has proposed discipline for officers in shootings that did not result in prosecution but are otherwise out of policy. Within the past year, the LASD fired four officers and demoted a fifth in connection with out-of-policy shootings. We commend the LASD for taking this step in the right direction. We also commend its recently inaugurated policy of conducting an administrative inquiry into all shootings resulting in injury. However, as the discussion below indicates, LASD's internal investigative process contains serious deficiencies and biases and should be substantially reformed. We will first discuss LASD criminal investigations and our criticisms of them. Then we will turn to administrative investigations of shootings and our criticisms of them.

### **Homicide Investigations**

The LASD has always required its Homicide Bureau to conduct an automatic criminal investigation of officer-involved shootings in which someone is wounded by a bullet. In such cases, four Homicide sergeants and one Homicide lieutenant will "roll out" to the shooting at any time of day or night. Two of the four Homicide sergeants secure the area for evidence. They place cones to indicate the location of shells, weapons, blood spatters and other pertinent evidence. They also direct Crime Lab personnel to measure, sketch and photograph the scene. The other two Homicide sergeants are

responsible for locating and interviewing witnesses and the involved officers. Homicide always has the first opportunity to interview witnesses and officers. Unlike many police agencies, the LASD has generally been able to obtain statements from involved officers.

Homicide's final report, commonly called the "Shoot Book," is submitted to the Special Investigations Division of the D.A.'s office for disposition. The Shoot Book, which can take months to assemble, is designed to provide a neutral summary of the evidence.

In March 1992, a member of our staff examined the rollout procedure firsthand by walking through the scene of an officer-involved shooting in the City of Rosemead. The on-site investigative procedures appeared impeccable.

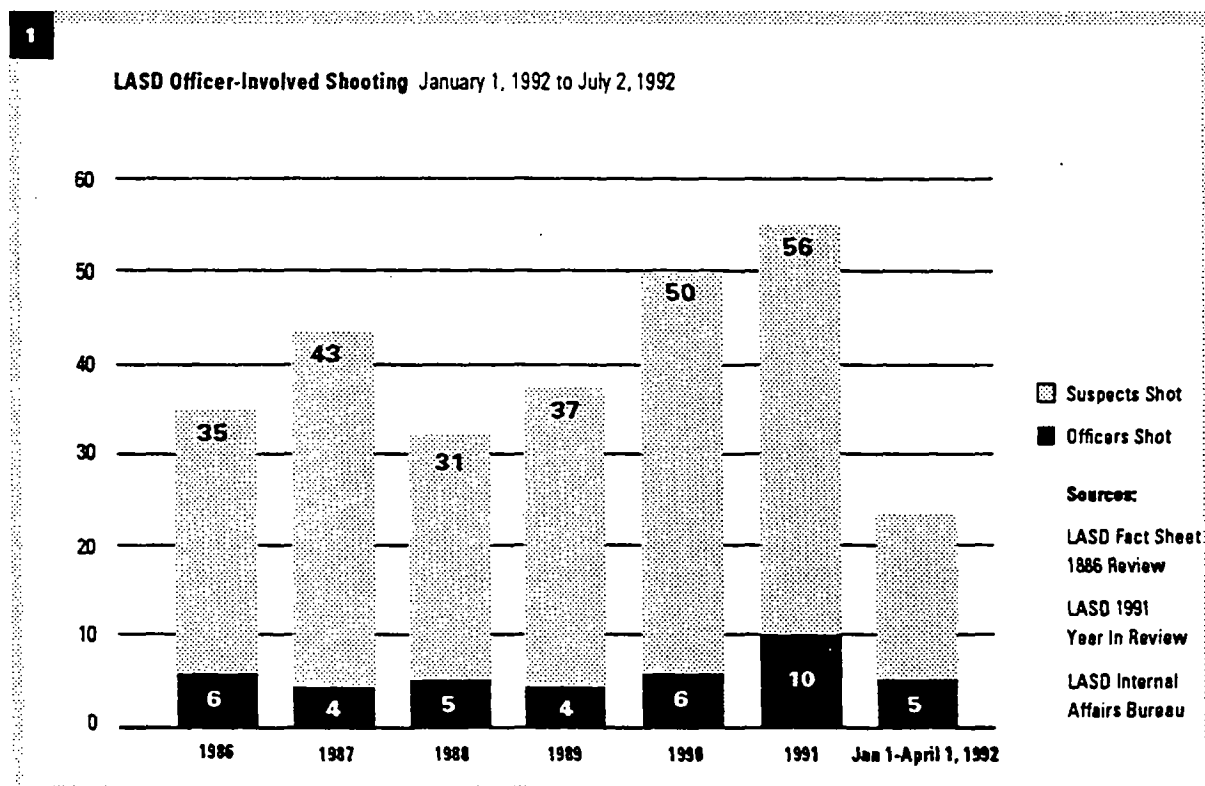
In addition, our review of over 100 Homicide Shoot Books indicated that, by and large, Homicide investigations of officer-

**Warning shots shall not be fired.**

**Firearms shall be regarded as defensive weapons and used only when the individual deputy is compelled to do so by existing circumstances.**

**It shall be the full responsibility of the individual deputy to use firearms only when absolutely necessary and fully justified by the circumstances.**

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involved shootings were fair and thorough. We did, however, find evidence of practices which compromised the integrity of some investigations.

**Untaped interviews.** We found a pattern of Homicide investigators conducting unrecorded interviews of witnesses and involved officers. The most widespread practice is "pre-interviewing" witnesses and officers at the station before tape-recording the session. According to a high-ranking Homicide official, the purpose of a "pre-interview" is to engage in "small talk" in order to calm the witness. However, we reviewed a number of files in which the investigator used the unrecorded "pre-interview" to talk to witnesses about the incident. One such file concerned a Homicide investigation of a recent fatal shooting in which several officers fired over a total of 40 rounds. In the taped interviews, the Homicide investigator "summarized" witnesses' off-tape statements in his own words and then asked the witnesses if his characterization was fair. A number of captains we interviewed condemned "pre-interviewing," claiming that it resulted in "cleaned up" interviews of involved officers.

Less widespread, but far more disturbing, were instances in which the investigator without explanation shut off the tape recorder in the middle of a witness interview. Whatever the real reason for going off-tape, it inevitably causes the listener to suspect manipulation. One example of this concerned a 1988 fatal shooting of an unarmed motorist. During an interview of the sole civilian witness, the Homicide investigator shut off the tape recorder when the witness began to contradict the story of the involved officers. When the tape recording resumed, the Homicide investigator marched through the sequence of events, allowing the witness only to reply, "Yes sir," and "Yeah." A subsequent wrongful death lawsuit was settled for nearly \$1 million.

**Leading Questions.** To determine the lawfulness of an officer-involved shooting, Homicide investigators must try to discover the officer's mental state at the time of the shooting. In some cases, we found unnecessarily suggestive questioning. Here are three examples:

- *“So, your intention at this point was to in fact combat [the suspect’s] violent attack?”*
- *“[Y]ou formulated the plan to return fire was — this . . . prompted for the public safety due to this armed suspect and fear for the safety of your safety [sic] as well as your fellow deputies that were to respond to the location?”*
- *“So . . . you immediately returned fire for all the same factors, fear, public safety and the lives of your fellow deputies as well as yourself?”*

In a small number of instances, the investigator seemed to be manipulating civilian witnesses to make statements exonerating the involved officer. One such interview arose out of an investigation of a shooting following a high speed car chase. Several gang members were racing toward a hospital after one passenger was shot by a rival gang member. LASD officers in an unmarked sedan saw the speeding car and pursued it. The gang members, seeing the unmarked sedan follow them at high speed, fired at the vehicle, apparently thinking that they were being chased by the gang member who had fired the earlier shots. At some point in the pursuit, the officers saw the suspects toss their guns out of the car window. When the suspects’ car stopped, and the officers demanded surrender, the driver raised both of his hands and placed them outside the window. He was instantly shot in the right arm. The officers continued to fire on the suspects, who were later discovered to be unarmed. The following is an excerpt from an interview with

**The LASD does not automatically conduct a criminal investigation of officer-involved shootings in which no individual is hit. However, Department officials have the discretion to have the Internal Criminal Investigations Bureau (“ICIB”) or IAB conduct a criminal or administrative inquiry. For example, in March 1992, Sheriff Block personally ordered an ICIB investigation of an off-duty party in Maywood in which several deputies allegedly fired over two dozen rounds in the air.**

■

the driver, a 15-year old Hispanic male who spoke without an attorney present:

Q: *So you stopped your car?*

A: *Yes.*

Q: *What happened next?*

A: *I stopped the car and I took my hands out of the window.*

Q: *You placed your hands out the window?*

A: *Yes.*

Q: *What happened next?*

A: *The cops started shooting at us.*

Q: *Why?*

A: *I don't know. We already stopped. Because probably 'cause we [had been] shooting at them.*

Q: *So, when you put your hands out the window, maybe they thought that you were gonna shoot again at them?*

A: *Maybe — yes, they probably thought that.*

Q: *Maybe? Would you have thought that if you were the cops and they were the bad guys and they had just got done shooting at you and —*

A: *Yeah, I would have —*

Q: *— they stopped — they stopped the car and stuck their arms out the window, would you think that maybe they were gonna shoot again?*

A: *Yes.*

Q: *So do you think that the — maybe the police officers were justified in shooting back at you again when you stuck your hands out the window?*

A: *Yes, I think that they were right.*

## **D.A. Investigations Of Shootings: Operation Rollout**

Since the summer of 1979, the LASD and the D.A.'s office have participated in a program known as Operation Rollout in which a deputy district attorney and a district attorney investigator also visit the scene to investigate police shootings at any hour of the night or day. The purposes of the rollout program are (1) to provide assurance of the integrity and trustworthiness of the LASD's internal investigation by the participation of an outside independent agency, and (2) to provide for quick, informed prosecutorial decisions about whether a crime occurred.

As soon as is practicable, the Homicide lieutenant is to provide the D.A. team with a briefing of the information developed in the investigation and provide a location for the D.A. team to observe the scene of the investigation. The D.A.'s personnel may not enter the scene, however, until escorted by the Homicide lieutenant, although the LASD is obligated to make every effort to place the D.A. team so that it can clearly view the physical evidence within the scene and to observe the investigative work by all LASD personnel within the area. Upon request and before any evidence is removed from the scene, the LASD will make the physical evidence found at the scene available for inspection to the D.A. team.

The Homicide lieutenant is further obliged to provide the D.A. team with a comprehensive walk-through of the scene and to identify all civilian and sworn witnesses and principals and their whereabouts. Homicide must also provide any other information that might assist the D.A. team.

Provisions are made in the protocol for interviews of civilian witnesses at the sheriff's station. The guidelines provide that when the LASD Homicide investigators have completed their interviews of any civilian witnesses at the station and know that the D.A. team may want to interview the witnesses, the Homicide lieutenant shall make the witnesses available to them. If possible, the responsible lieutenant will also brief the D.A.

team concerning the statements of civilian witnesses made to LASD investigators, including whether the interviews were tape-recorded. Finally, the Homicide lieutenant is obliged to make every reasonable effort to keep the D.A. team informed of the progress of the entire ongoing investigation.

Operation Rollout is limited to officer-involved shootings in the field when there is a hit. The D.A. does not automatically investigate deaths occurring in police custody and does not roll out in instances of serious injury involving hospitalization but not involving shootings.

In general, the Operation Rollout procedures appear to work well, although there have been some complaints from the District Attorney's office that on occasion, the LASD fails to inform the D.A. Command Post of shootings in a timely manner; that on occasion, witnesses have left before the D.A.'s representatives can interview them or they get to the D.A.'s people very late; and that some captains on occasion are hostile to the D.A. team.

We also heard a number of more serious criticisms of the process from present and former deputy district attorneys. The principal criticism concerned attempts by the Sheriff's Department to manage or manipulate the outcome of investigations or to discourage prosecutions altogether. The manipulation can take many forms.

Perhaps the most serious potential for such manipulation arises because of the Sheriff's Department's practice not to permit contemporaneous interviews of the officers involved in the shooting by the D.A. team. The internal Homicide investigation always takes precedence. This compromises the appearance of integrity of the investigation even if the internal investigation is completely above board. The potential exists for the involved officers to be coached as to what to say to avoid prosecution or walked through an interview in which leading questions suggest lines of defense to the officer. Again, we are not saying that this occurs. But the appearance of integrity is not maintained if the deputy district attorney is excluded from these interviews.

The Department's rationale for not allowing the deputy district attorney to conduct a contemporaneous interview is that the officer will not talk if the deputy district attorney is present or would insist on the presence of a union representative or a lawyer. It would impede and overly formalize the investigative process, in the view of the Department. But in the view of deputy district attorneys we spoke with, this practice is a serious impediment to a full and fair investigation and a principal cause for the lack of prosecutions in officer-involved shootings. We recommend that this practice be changed.

The deputy district attorneys stressed other ways in which investigations can be manipulated. A deputy district attorney who has the reputation of being hard on the police may be given the run-around, kept in the dark about investigative details, or simply be kept waiting interminably at the scene of the shooting or later when he or she attempts to follow up. Deputy district attorneys state that passive noncooperation, delays, mix-ups, unavailability of personnel and other similar tactics by the Sheriff's Department can severely prejudice an investigation or prosecution of a deputy for misconduct.

An example of the foregoing, though not involving a shooting, arose from a station-house beating of an undocumented person. The man was hung upside down by the rafters in an interrogation room at a station and beaten by two deputies with batons. The man complained to a sergeant, who laughed the incident off until the alien's bloody shirt was found in a wastebasket. The D.A. filed a case against the deputies. The man who was beaten was sent to prison. In such circumstances, when an alien is in prison and is needed for a subsequent case, the normal practice is for the police to secure a temporary visa for the alien so that he is not immediately deported upon release from prison. Here, the prison was not contacted, the alien was deported, and was thus unavailable for the contemplated trial of the deputies, fatally prejudicing the prosecution. The absence of the alien also apparently led to a Civil Service determination to reverse an order to discharge of the deputies.

Pressure can be exerted at all levels by the Sheriff's Department to dissuade prosecu-



tions. Although the Sheriff's Department may not directly tell the deputy district attorney not to file a case or to reject a referral, the representative from the Sheriff's Department may strongly disparage the case, saying that "the witnesses cannot make up their minds" or simply pointing out all the weak spots in the case and not mentioning the strong ones. Sometimes the D.A.'s investigator will find evidence the Department had overlooked. Deputy district attorneys said that lobbying not to file a case occurs with regularity in cases where the Sheriff's Department is dead set against there being a filing. Pressure may be brought to bear on the D.A.'s investigator, who is usually a former police officer. Pressure can be put on the deputy D.A., his or her chief and up through the ranks of the District Attorney's office.

On the other hand, the D.A.'s office must take substantial blame for its failure to prosecute more than one questionable shooting incident in the last decade out of 382 referrals of possible prosecutions to it. Cognizant of the perils of second-guessing, attorneys on our staff reviewed several strong cases which should have been prosecuted, but were rejected by the D.A.'s office. Particularly disturbing was the tone of several D.A. reject letters, likened by one attorney on our staff to a "don't worry" letter sent to a troubled client. We found incomprehensible a recent D.A. reject of a fatal shooting where there was ample documented evidence that the deputy was combing the streets outside his patrol area, against direct orders not to interfere, looking for a fight one New Year's Eve. The D.A.'s reject letter explained in soothing tones to the LASD that the case was not prosecutable because of inconsistencies (which we found to be immaterial) in the statements of two eyewitnesses. Contrary to the deputy's version of the facts, the eyewitnesses and the Coroner's report indicated the victim was shot in the back and side. There was slim, if any, evidence that the deputy was in danger or could have believed himself to be. The D.A. should have filed a case.

Thus, the D.A.'s office, along with the LASD, must be held accountable for a lack of prosecutions when the shooting suspect is a Sheriff's deputy.

## *Administrative Investigation Of Officer-Involved Shootings And Force-Related Hospitalizations*

### **Officer-Involved Shootings**

Within the last year, the LASD has stated its intention to discharge four officers in connection with three fatal shootings deemed to violate Department policy. Since 1980, there has only been one other discharge for a shooting. A 1990 internal task force on the use of excessive force criticized the dearth of discharges and the lack of any formal mechanism for examining the propriety and tactical soundness of officer-involved shootings. The IAB Officer-Involved Shooting Team (OIS Team) was formed on June 1, 1991 to respond to these criticisms. Headed by a lieutenant, the OIS Team is a cadre of top IAB investigators who rollout to all officer-involved shootings in which a person is injured by gunshots fired by LASD officers.

An IAB Unit Order explains:

*The primary purpose of the investigation is to develop facts that will enable Department executives to determine whether there was adherence to Department policy, compliance with specific training, utilization of basic tactical principles, and whether there was exercise of reasonable judgment under the given circumstances.*

One OIS Team official distinguished his team's investigation from Homicide's, explaining, "Homicide looks at the shooting from the time the trigger is pulled to determine whether the officer committed a crime. We look at the incident from the trigger pull and work backwards. The idea is learn what events lead up to the shooting and whether the officer employed sound tactics."

Upon notification of an officer-involved shooting, two OIS Team sergeants, accompanied by an IAB lieutenant, respond immediately to the scene and conduct a policy-

oriented investigation. Ten days later, the OIS Team issues its report for review by the involved officer's captain, area commander, and region chief. Each reviewer must determine whether the report indicates (1) officer misconduct, requiring the opening of full-blown administrative investigation, (2) poor tactics, requiring counseling and/or retraining or (3) that current policy and/or training should be reevaluated. Each has the discretion to refer the matter to a training bureau (e.g., Advanced Officer Training Bureau, Field Operations Training Unit).

The LASD deserves credit for its recent decision to give close administrative scrutiny to officer-involved shootings. We acknowledge that the OIS Team has only been in operation for a year, but we nonetheless identified several problems in its current practices.

**Only "hits" receive priority.** The first shortcoming is that the OIS Team does not automatically respond to shootings in which the officer misses the suspect. One OIS Team official conceded that "because the only difference between a hit and a miss is marksmanship, there's no real reason not to rollout to incidents where no one is hit. The tactical issues are the same." He added that current budgetary constraints have thus far prevented rollouts to shooting "misses."

Non-hit shootings are investigated, if at all, by the station watch commander on duty at the time of the shooting. Watch commanders we interviewed complained that they had neither the time nor the expertise to conduct a thorough and complete shooting investigation. Several felt their efforts were futile because non-hit shootings received little scrutiny by department executives. One described a recent non-hit shooting at his station thus: "If [the] deputy had hit someone, it would have been the stinkiest shooting this side of Creation." He then complained that because no one had been injured, no action would be taken.

A 1990 informal survey of deputies and sergeants on force-related issues revealed similar discomfort with the low priority given to non-hit shootings. Deputies cited two

specific instances where fellow officers wrongfully fired at fleeing suspects. Despite what they felt was a blatant misuse of deadly force, neither incident was investigated because the suspects were not struck.

**Shooters are not interviewed.** In order not to compromise a possible criminal prosecution, the OIS Team is not allowed to interview the involved officer while a criminal investigation is pending. However, the OIS Team does not generally interview the officer even **after** it is determined there will be no criminal prosecution. As a result, many of its investigative reports contains no direct statements from the involved officer. Those OIS Team reports which do contain officer statements simply attach a transcript from the Homicide interview, which does not address policy or tactics. A number of captains viewed this as a central failure. One asked, "How can you pretend to do a tactical evaluation and not interview the shooter?" Several frustrated captains added that they took matters into their own hands and (in violation of Department policy) directly questioned the officer about policy and tactical issues.

**Pertinent information is often missing.** One OIS Team investigator conceded that because his reports are due within 10 days of the shooting, he often does not have time to conduct a comprehensive investigation. We agree. Many of the reports we reviewed lacked statements from witnesses present at the scene. Those included were typically conducted by Homicide, whose investigation is limited to possible criminal conduct. Several files reported the number of shots fired, but because the Coroner's Report had not yet been issued, could not state where, or how many times, the suspect was struck. Some captains stated that the OIS Team report was too cursory to be of any use.

**Tactical evaluations generally not thorough.** Although the LASD has established rigorous procedures regarding the format and content of OIS Team reports, it has provided little or no room for tactical insight. None of the OIS Team investigators has received any special weapons and non-weapons training in preparation for rollout evaluation. The OIS Team does not keep a mini-library of training materials in its offices. Finally, the OIS

Team reports typically do not include copies of relevant training materials.

**Focus too narrow.** Although the purpose of OIS Team rollouts is to allow department managers to evaluate shootings "from the trigger pull backward," we found that many managers limited their focus to events occurring after the officer draws the gun from the holster. This focus is too narrow. **Our staff reviewed many cases in which officers unnecessarily walked into or created situations which ultimately required the use of deadly force.** In one such incident, Sheriff's deputies found a motorist fast asleep in his vehicle with his hand on a gun. Rather than closing off the area and offering the suspect a chance to surrender, one deputy opened the driver's door and lunged across the front seat. Predictably, the suspect was startled awake and in the ensuing confusion, deputies fired a total of 70 rounds into the vehicle, killing the motorist instantly. In another instance at Ramona Gardens, described in detail later in this report, a deputy started a confrontation that inevitably led to a fatal shooting.

These incidents, and many others we reviewed, presented issues of training and judgment as well as possible misconduct. Yet without fail, executives confined their focus to whether the incident presented "a good shoot," (e.g., whether the officer took cover, or left other officers in the line of fire.) **We found no evaluations in OIS Team reports that directly addressed the question of whether the confrontation could have been avoided in the first place. That is the key question which in each instance the OIS Team report should address.**

### **Investigations Of Force-Related Hospitalizations**

In June 1991, the LASD also launched a program for rollout evaluation of all force incidents (including those which do not involve a firearm) resulting in hospitalization of a suspect beyond emergency room care. In all such instances, the IAB "Force Team" (composed of the same investigators on the OIS Team) responds to the hospital to conduct its investigation.

The Force Team investigation is similar to the OIS Team investigation in many respects. First, it is usually completed within 10 days of the incident. Second, it utilizes the same highly-detailed form which provides data about the setting of the incident as well as victim and officer profiles. Third, the Force Team report is submitted to the captain and his superiors for a determination of whether the force used fell within Department policy and was tactically sound.

Neither Homicide nor the District Attorney conduct an automatic criminal investigation of force-related hospitalizations. Thus, the Force Team is free in theory to interview the involved officer unless it refers the case to ICIB for a criminal investigation. Unfortunately, it rarely exploits this opportunity. In virtually every Force Team report, the officer's version of events is provided by the arrest or supplemental reports. This is woefully inadequate. In the first place, officers prone to use excessive force cannot be expected to admit to misconduct in their reports. Second, the Force Team does not avail itself of the opportunity to question the officer on tactics and whether the severe use of force could have been avoided.

Force Team reports share many of the shortcomings found in OIS Team reports:

- Witness interviews not fully presented. In one file, Force Team investigators failed to interview over one dozen witnesses, relying instead on handwritten notes by a sergeant.
- Photographs sometimes unnecessarily poor. Several files contained photos of bandaged arms and legs. Obviously, such photos are of no help in determining the severity of the injury or whether the injury is consistent with the involved officer's explanation.
- The focus is too narrow. The stated mission of the Force Team is to provide an opportunity to review officer tactics and to determine whether training needs to be revised.

Unfortunately, the focus is confined to the tactics employed once the confrontation has begun.

Our staff also found that managers reached suspect conclusions by ignoring clear-cut physical evidence contradicting the officer's version of events. In one case, a suspect was hospitalized for a blunt trauma to the head which resulted in cranial bleeding. The involved deputy claimed that after he tackled the suspect (who had just obeyed the deputy's order to drop a gun he was carrying), the suspect hit his head on the sidewalk. The suspect claimed that after he dropped the gun, the officer struck him twice above the eye with a metal baton. The attending physician opined that the suspect's injuries were not consistent with hitting a flat surface, but rather with at least two powerful blows from either a fist or a sharp object. The deputy's captain and region chief accepted the deputy's story without even referring to the physician's testimony. Moreover, the captain praised the involved deputy for exercising "commendable restraint" during the incident.

We applaud the LASD for establishing the long-overdue OIS and Force Teams. The above criticisms and the following recommendations are made in the spirit of ensuring that these teams realize their potential.

### *Recommendations Regarding Criminal Investigations:*

**The LASD Homicide Bureau should not permit untaped portions of interviews or leading questions which compromise the integrity and neutrality of the investigation.**

The Sheriff's Department is to be commended for being an early pioneer in the use of a rollout team which includes representatives of the District Attorney's office. In the intervening years since 1979, however, there has been an expansion and refinement of rollout programs throughout California, and we believe that it is time for the Sheriff's Department and the District Attorney's office to review the rollout program and procedures thereunder. **We recommend in particular that the Sheriff's Department put down in writing and formalize a number of practices which may already exist on an**

informal basis but which are necessary to enhance the integrity of all shooting and force investigations. We particularly recommend that the Sheriff's rollout program contain the following features:

1. That each participating agency, including the District Attorney's office, have access in the first critical hours to all of the investigation's information sources, including the scene, the weapons, other physical evidence, the involved officers, the witnesses and the victim's family. We believe this step is necessary to assure a high level of investigative integrity. The public, the news media, and the victim's family will have greater confidence in the fullness and fairness of the investigation. It will enhance the investigative credibility of those agencies whose officers are involved and might become the subject of litigation in connection with an officer-involved shooting.

2. That officers who were present at the scene at the time of an officer-involved shooting, whether as actors or witnesses, be relieved of duties at the scene as soon as possible; that an uninvolved officer from a station whose officers are not involved in the incident be assigned immediately to come to the scene and be assigned to accompany the involved officers and to remain with the involved officers, either in a group or individually, until they can be interviewed. The sequestering of officers will, among other things, ensure the integrity of each officer's later statements to investigators and will eliminate the need for multiple and sometimes confusing interviews by several different agencies. Although the LASD officially sanctions sequestration, we found numerous instances in which officers were permitted to remain together. Failure to strictly require sequestration inevitably gives rise to inferences of collusion which could be devastating in civil litigation.

3. That the rollout be expanded to include (1) in-custody officer-involved fatalities and (2) injuries from use of force which require hospitalization or a trip to an emergency room.

4. That the D.A.'s Special Investigations Division be informed and given an



opportunity to rollout, if the D.A. so desires, in any instance in which there are injuries resulting from a use of force in the field or at a station house that requires a trip to the hospital's emergency room.

### *Recommendations Regarding Administrative Investigations:*

1. All officers involved in shootings should be interviewed by OIS investigators regarding policy and tactics once it is determined that the officers will not be prosecuted for criminal conduct. Furthermore, all officers involved in uses of force requiring any medical treatment or examination by a physician should be interviewed by the IAB Force Team regarding policy and tactics, unless the Force Team decides to refer the use of force to ICIB for criminal investigation.

2. The Force Team should automatically rollout in all instances in which a suspect requires medical treatment and/or examination before being released for booking. Currently, Force Team investigations are limited to those incidents in which the suspect/inmate is admitted to a hospital. However, our investigation has indicated that many injuries not requiring full hospitalization were nonetheless quite serious — the most common being head trauma from batons or flashlights. Under current department policy, suspects are routinely transported to the hospital, have their scalps sutured and are returned for booking. We believe such incidents present the very same policy and training issues presented by full hospitalization, and should receive department-wide attention.

3. All OIS and Force Team personnel should receive specialized weapons and nonweapons training on an annual or semi-annual basis. Furthermore, they should include relevant training materials in their investigative reports to ensure that reviewing managers and executives receive up-to-date information regarding training and tactics.

4. All OIS and Force Team reports should be routed to the appropriate officer training bureaus for evaluation and possible inclusion in future classes or training films. The commanders of training bureaus should be authorized to issue memoranda with their own impressions of the reported incidents to the involved officer's captain, area commander, and region chief.

5. The OIS and Force Team, in conjunction with various training bureaus, should issue an annual report discussing the incidents investigated by the OIS and Force Teams during the past year.

6. Department executives reviewing OIS Team reports should make a specific determination of whether the shooting incident could have been avoided by "tactical retreat".

7. The LASD should attempt to make OIS and Force Team assignments career positions through various incentives. The OIS and Force Teams have the potential to be one of the greatest assets to the LASD in terms of identifying disciplinary, training, and policy problems. Accordingly, it should devote resources to attract and retain the best officers for the job.



## 9. Problem Officers

Using a methodology akin to that employed by the Christopher Commission in its examination of the LAPD, we structured a focused examination of particular deputies who were disproportionately responsible for force investigations. Our purpose was to obtain insight into the LASD's disciplinary practices and to determine if the repeated use of excessive force detrimentally influenced a deputy's career.

Before we set forth our conclusions, we must make several caveats with respect to how this portion of our Report should be interpreted or compared to the similar study in the Christopher Commission Report. Much attention focused on the 44 officers studied with particular care by the Christopher Commission. In some quarters, there was an erroneous impression that the LAPD's force-related problems were limited to these 44 officers and that if the LAPD dealt with them, its problems would be largely resolved. In contrast, we believe that the Christopher Commission singled out the 44 simply because their cases were the clearest examples of a system-wide failure on the part of the LAPD and that the problems their files displayed extended to a substantial number of other officers in the LAPD.

Our study identifies 62 deputies who constitute an illustrative group according to the methodology we employed. It illustrates clearly and dramatically how the LASD has failed to give them the close scrutiny they deserve. We discuss these deputies only to show in an emphatic way how serious the system-wide failures can be. We should not be interpreted to say that these deputies constitute the only potentially problem deputies or define the scope or boundaries of excessive force problems within the LASD. Nor should any inferences be drawn about the 62 LASD deputies versus 44 LAPD officers. **We specifically disavow that these numbers mean that LASD has a bigger group of problem officers, or a greater problem with excessive force or more "bad guys" than does the LAPD.** It would be a grave error to read into our Report any relative judgments about the LAPD and the LASD in this area. We leave it to others to draw whatever comparisons they wish between the LASD and the LAPD.

We also want to make clear that we believe the vast majority of the 8000 or more

LASD sworn personnel do their job well. Nonetheless, the following discussion indicates that the LASD has failed to deal with officers who have readily identifiable patterns of excessive force. The Department responds by stating that it is becoming tougher on discipline, and it has. For example, within the last year, the LASD took the unprecedented step of discharging 4 officers for shootings which were determined not to be criminal.

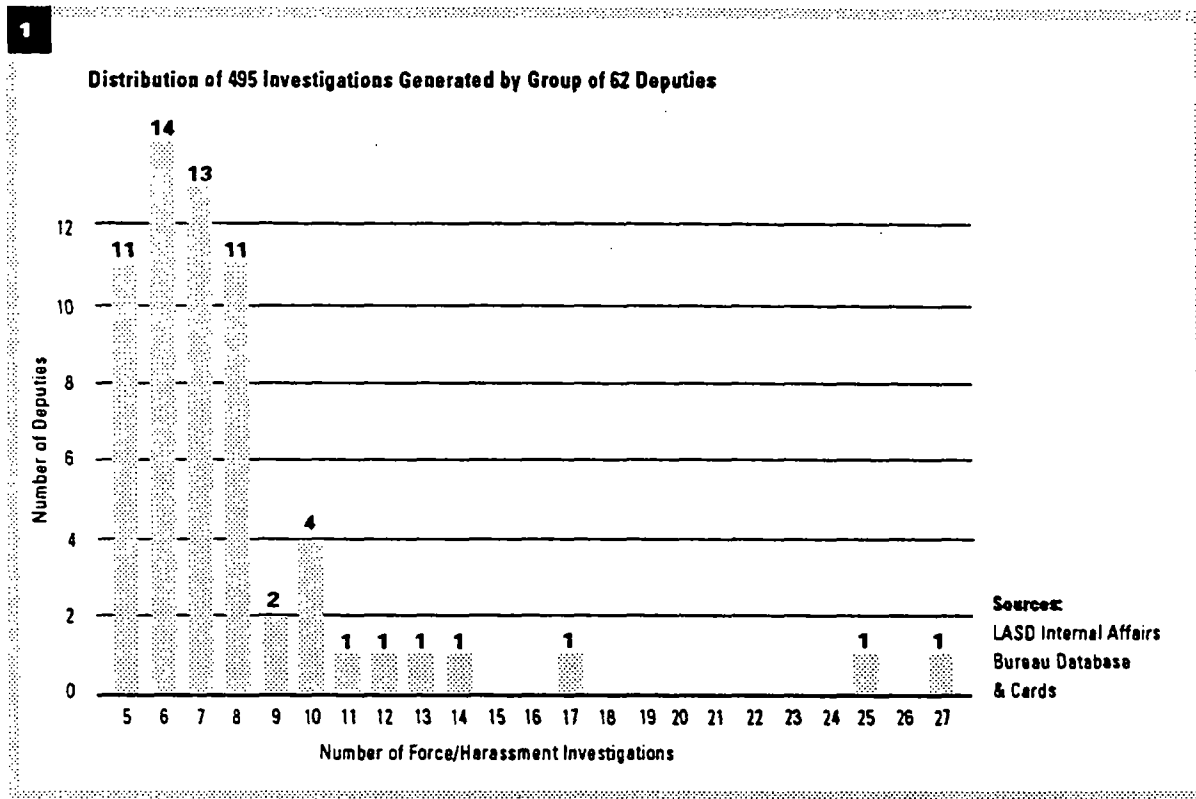
These efforts, however, are inadequate responses to the problem. We were able to identify an illustrative group of deputies who were repeatedly the subjects of formal administrative investigations for shootings or excessive force. Despite a history of questionable conduct, nearly all of these officers continue to patrol the streets of Los Angeles County. Worse, many act as Field Training Officers ("FTOs") imparting their "street wisdom" to patrol deputies.

The methodology we employed was shaped largely by the contours of the LASD's current recordkeeping system, which was seriously underinclusive. For example, the LASD, unlike the LAPD and other large law enforcement agencies, does not require deputies to submit a separate use of force report for tracking purposes. Another example is that the LASD did not require captains to retain records of citizen complaints which were not considered sufficiently serious to warrant a formal investigation.

The LASD's recordkeeping required us to use the number of internal investigations of alleged excessive force as the best available indicator of whether an officer exhibited a pattern of using excessive force. The LASD Policy Manual defines many categories of misconduct, only one of which is narrowly defined "Use of Force." We combined "Use of Force" with other misconduct categories, which we call "Force/Harassment allegations" to arrive at the best approximation of the total investigations of an officer's use of force. Examples of excessive force categorized by the LASD in different areas include: picking fights with citizens or subjecting them to cruel treatment, which is categorized as "Conduct Toward Others," and deliberately or negligently injuring a suspect or inmate,

which is categorized as "Safeguarding Prisoners."

We thus reviewed various LASD databases and files to find deputies who, between January 1986, and April 1992, have been investigated at least five times for shootings or complaints of Force/Harassment allegations.



From these criteria we identified 62 deputies. The distribution of investigations by deputy is set forth in chart 1. Because the LASD after five years routinely destroys investigative files (except those pertaining to officer-involved shootings), our ability to learn the facts about these earlier investigations was limited. We reviewed all extant investigative files and all personnel files on these deputies that could be found at the LASD's headquarters.

All 62 of these deputies are men. Roughly 75% are over 30 years old, a fact that seems to run against the popular notion in law enforcement that excessive force is associated with chronological immaturity.

Altogether, the group of 62 was responsible for nearly 500 separate Force/Harassment investigations. One deputy alone accounted for 27 investigations; another was responsible for 25. Seventeen of the deputies were responsible for 22 lawsuits resulting in nearly \$3.2 million in jury awards or settlements paid out by the County.

### *Review of Personnel Evaluations of the Illustrative Group*

Upon completing their probationary period, deputies are evaluated annually for their performance by a supervisor (usually a sergeant or lieutenant) who gathers information about the deputy's conduct in the field. The supervisor can review all existing Homicide, Unit or IAB investigative files on the deputies, as well as entries in the "Black Book" — a log of positive or negative remarks made by citizens and/or station supervisors within the last 12 months.

Supervisors use a standardized form to evaluate their deputies. The forms contain no explicit category for use of excessive force, but implicitly test for it under categories such as "Personal Relations," "Meeting and Handling the Public," "Work Habits" and "Observation of Safety Rules." A deputy's performance is rated as "Outstanding," "Very Good," "Competent," "Improvement Needed" and "Unsatisfactory." Supervisors must discuss the deputy's strengths and weaknesses during the 12-month period.

Overall, the evaluations in personnel files of the illustrative group were extremely laudatory. Many files were filled with documentation of formal and informal compliments and commendations, no matter how trivial. In sharp contrast, there was near silence about investigations for excessive force. As a rule, the evaluations did not refer to investigations that were determined to be "Unfounded" or "Unsubstantiated." None referred to lawsuits in which a jury had decided that the deputy used excessive force or to substantial settlements paid by the County in such cases. Nearly all of these evaluations

omitted mention of pending investigations of citizen complaints or fatal shootings. Although discipline for Founded allegations of misconduct was noted in almost all personnel files (one file neglected to mention a 30-day suspension), few evaluations discussed the underlying incidents or otherwise appeared to take them into account.

In addition, a history of Force/Harassment investigations did not stand in the way of promotion to Field Training Officer or highly-coveted assignments such as the Gang Enforcement Team (GET), where there is little or no supervision of the deputy.

The following profiles illustrate our general observations:

### **Deputy A**

Deputy A joined the LASD after being turned down for employment by the LAPD and another local police department. He has been the subject of 27 Force/Harassment investigations. Although the LASD has been warned that deputy A may have deep psychological problems, it has kept him on the force.

In 1990, deputy A became involved in a verbal altercation with a civilian employee of the LASD. The civilian alleged that deputy A, then assigned to a canine unit, threatened to unleash his dog on the civilian. Deputy A received a written reprimand for his conduct. Earlier in 1990, deputy A had received a written reprimand for arguing tactics with his supervisor during a field operation. On that occasion, deputy A was ordered to leave the scene.

One 1988 IAB investigation of alleged derogatory language by deputy A refers to 28 prior complaints relating to deputy A's behavior. It also contains a note to the Undersheriff stating that deputy A's history has been discussed with County Counsel, who concluded that deputy A's "anger and hostility" made him a "potential liability." County Counsel recommended that deputy A undergo a psychological examination "to determine if he may be safely retained in an active law enforcement capacity."

This red flag does not appear in deputy A's personnel file or evaluations, which rate



him as "very good" in his ability to get along with others. Moreover, his evaluations did not account for deputy A's willingness to fight with other law enforcement officers. For example, they do not refer to (1) a written reprimand deputy A received in connection with a dispute with his supervisor over tactics, (2) a written reprimand deputy A received for a verbal altercation with a State Police officer or (3) a 2-day suspension deputy A received for a fistfight with another deputy.

In short, we found no indication that the LASD has reacted responsibly to numerous warning signs — or to the 1988 plea by County Counsel to restrict deputy A's access to the public.

### **Deputy B**

Since joining the LASD, deputy B has been the subject of 17 Force/Harassment investigations, 3 of which related to shootings. In 1984, the Department proposed to fire deputy B for writing a false police report that resulted in a failed prosecution. Although not explained in deputy B's personnel file, deputy B was permitted to resign in lieu of being fired. Deputy B's personnel file also does not explain why deputy B was reinstated just over eight months later.

One 1990 investigation of deputy B concerned a citizen's allegation that deputy B struck the citizen in the mouth with a metal flashlight, knocking out four front teeth. The allegation was deemed "Unsubstantiated," although the investigation confirmed that a blow from deputy B caused two caps on the complainant's teeth to come loose, and a document in the IAB investigative file expressed concern with deputy B's "extensive record of prior investigations of similar allegations."

In a 1989 complaint, a motorcycle rider alleged that, after a short chase, deputy B beat him with a flashlight. A number of independent witnesses corroborated the complainant's story. The matter was referred to the D.A.'s office for prosecution, but was ultimately rejected. After subsequent IAB investigation, the complaint was deemed

"Unsubstantiated."

A 1987 investigation concerned allegations that deputy B put a suspect in a patrol car, ostensibly to question him, and then punched and struck the suspect with his flashlight. The Department referred the matter to the D.A.'s office for criminal prosecution. A prosecution of deputy B was initiated, but was later dismissed for prosecutorial misconduct. The Department then withdrew its initially proposed 10-day suspension and entered a finding of "Unsubstantiated."

Although deputy B has a history of use of excessive force — he was twice referred to the D.A.'s office for possible criminal prosecution — and was once fired for writing a false police report, he is viewed by his superiors as a "hardcharger" and a good deputy. Deputy B's evaluations over the above time period are consistently "very good." In his 1991 evaluation, the only criticism was that deputy B was too willing to make arrests without calling for backup. His 1989 evaluation states that deputy B "seldom generated citizen complaints." Throughout the above time period, deputy B's "meeting and handling the public" skills were also consistently rated "very good."

### **Deputy C**

Since 1986, deputy C has been the subject of 7 Force/Harassment investigations, 2 of which pertain to 1990 shootings.

One 1990 investigation focused on deputy C's involvement in the beating and fatal shooting of a robbery/kidnapping suspect. The suspect allegedly drove his car directly at deputy C, who fired six shots. The suspect eventually stopped his car after a high-speed freeway chase, and, according to the deputies involved, became "combative." Deputy C then pulled the suspect out of the car and struck him several times on the head with his flashlight. The Coroner's Report revealed that the suspect's skull had been smashed **after** the suspect sustained a fatal gunshot wound. The Coroner's Report also noted numerous horizontal welts on the suspect's back. The difficulty in reconciling evidence of a severe

beating occurring after a fatal gunshot wound, as well as significant under-reporting of the force used (deputy C's Watch Commander claimed that deputy C did not report any force to him that evening), the LASD opened an IAB investigation which is still pending. The D.A. thought that there may have been excessive force used on the suspect, but declined to prosecute. The incident is the subject of a multi-million dollar lawsuit now pending in state court.

The same year, deputy C shot and wounded an unarmed suspect after a car chase. Deputy C claimed that the driver was armed. However, no gun was found and two passengers in the car stated that no one was armed. The D.A.'s office declined to prosecute and the LASD did not open an administrative investigation.

Deputy C was relieved of duty in January 1992 — apparently not because of any of the aforementioned force incidents, but because of becoming argumentative when he was pulled over by LASD deputies for suspected drunk driving while off duty.

Except for referring to this off-duty incident and a reprimand for sending a sexist Mobile Digital Transmission (MDT), deputy C's personnel file is extremely positive. In 1991, he was selected as an FTO. His evaluation for that year notes that deputy C "handles the public well and has not received any citizen's complaints . . . [he] always handles emergency situations in a cool, collected professional manner." This assessment echoes his 1989 and 1990 evaluations, which single deputy C out for his ability to get along with the public.

### **Deputy D**

Deputy D has been the subject of 6 Force/Harassment investigations, 2 of which relate to controversial shootings.

In March, 1987, deputy D shot and killed a suspect in an incident that resulted in a settlement by the County that exceeded half a million dollars. Deputy D was involved in a struggle with a suspected spouse-beater who allegedly grabbed deputy D's baton; the

baton was found under the suspect's body, but had no fingerprints. Deputy D then shot the suspect ten times, which required him to reload his revolver. Some entrance wounds were in the suspect's back, and none was consistent with deputy D's story that the suspect had assumed a "batting stance" with the baton. Indeed, some bullet trajectories were as much as 90 degrees downward, suggesting that the victim had been shot while kneeling or crouching. The suspect also had abrasions on his body. An independent eyewitness stated that there was no struggle over the baton before the shooting began and that deputy D had his gun drawn from the beginning of the confrontation. An LASD consultant hired in connection with the defense of the lawsuit concluded that deputy D was in a "panicked state" at the time of the shooting. The D.A.'s office declined to prosecute and the LASD declined to conduct an administrative investigation of the incident.

Three years later, in May 1990, deputy D fired 23 rounds (again requiring him to reload) at a fleeing suspect, striking him 6 times. The D.A.'s office declined to prosecute and the LASD declined to open an administrative investigation, even though a bystander claimed that the suspect was unarmed and was struck from behind. The shooting is part of a multi-million dollar class action now pending against the County.

Deputy D's personnel file, like many of those we reviewed, was missing an evaluation covering critical time periods. Deputy D had no evaluation covering the time period of the 1987 fatal shooting incident described above. The next evaluation, covering November 1987 through November 1988, stated that deputy D "performs well in emergent and stressful situations." Two years later, deputy D was selected as an FTO, despite his involvement in a controversial shooting that year. His 1990 evaluation does not refer to that shooting incident. Giving deputy D an overall rating of "very good," the evaluation stated: "[Deputy D] handles emergencies very well. He is able to maintain clear thought and reason while in stressful situations." His 1991 evaluation characterizes him as a "mature and professional" Field Training Officer.

## **Deputy E**

Since joining the Department in 1982, deputy E has been the subject of 5 Force/Harassment investigations, 2 of which were Founded and resulted in discipline. In 1991, deputy E broke a juvenile's arm while effecting an arrest and received a 5-day suspension. In 1990, deputy E received a 1-day suspension for disobeying an order to terminate a high-speed car chase.

Deputy E also had generated several unsustained investigations for allegedly brandishing his firearm before unarmed citizens. In one incident, an African-American male complained that as he was pulling into his own driveway, deputy E drew his firearm and ordered the driver to exit the car and place his hands on the hood. When the driver's companion protested that they were on their own property, deputy E allegedly responded by yelling, "I don't care if you are in your goddamn yard, put your hands on the hood now!" Deputy E was counseled for using derogatory language.

Deputy E's supervisors allude to deputy E's confrontational demeanor, but cast a positive light on it in their evaluations. In one veiled reference to deputy E's penchant for drawing his gun without provocation, a supervisor stated that "[Deputy E's] alertness to issues of officer safety is deeply ingrained into his methods of personal conduct." The supervisor dropped his guard somewhat to add that "[Deputy E's] increasing maturity and tenure in his position will allow him to overcome his occasional over-zealousness." However, the supervisor concluded overall that deputy E's "communication skills, combined with a great deal of perceptiveness and personable style, enable him to effectively manage his personal relations with ease."

These profiles illustrate that the LASD has failed to identify and deal with officers who appear to use excessive force and get away with it time and again — even when their actions end up costing the County hundreds of thousands of dollars. We now turn to discuss some solutions in the next three chapters wherein we recommend a tracking

system, a headstrikes policy and a study of conflicts and disincentives to investigation of problem officers and conflicts of interest inherent in such investigations.



## 10. Tracking the Use of Force

*"[Supervisors] just let it go and that's why it goes to the extent that it does — and then we end up terminating the guy. We don't need to terminate the guy most of the time. We could have stopped him before we were forced to fire him."* — IAB investigator

The LASD keeps careful and abundant statistics about itself. Each year, for example, it produces an inches-thick compilation of data entitled "Year In Review." In it, one can find out almost anything: the percentage of female, Hispanic civilians in the LASD, the number of blood/urine alcohol tests performed, the number of juveniles arrested by the Temple Station for gambling and the number of females, age 22, arrested for disorderly conduct.

In sharp contrast, however, the LASD keeps surprisingly little information in useable form pertaining to the use of force. Although the Department is making advances in terms of its computerization of force-related data, and may in a few years have a reliable system, it does not have one today. To a large extent, this is a result of a previous policy of self-imposed ignorance. Driven by fears that data on use of force and citizen complaints would be used against it in civil litigation, the LASD followed legal advice from County Counsel to avoid creating "paper trails" when it could. When it could not, the information was scattered throughout the LASD and kept haphazardly.

To this day, then, the LASD has very little information about trends and patterns concerning its officers' use of force. This lack of concrete and specific information cripples management in several ways. First, it disables the LASD, its training bureaus and its task forces from adequately reviewing and evaluating weaknesses in current training and policy. Changes thus cannot be made in a timely fashion. Instead, the Department is placed in the uncomfortable position of being reactive, waiting until a "headline incident" occurs before poor training receives Department-wide attention.

Second, the lack of useful information prevents the Department from identifying individual problem officers, or cliques of problem officers, until after the damage has been done, possibly subjecting the County to millions of dollars in civil exposure.



For at least five years, the LASD has issued monthly or quarterly summaries of administrative discipline recommended by Department executives. However, these summaries contain little information about the incident giving rise to discipline and no information about the officer's identity or assignment. Thus, department executives are unable to track patterns of excessive force exhibited by particular officers or stations. In addition, the summaries provide no information indicating why some offenses resulted in more severe discipline than others. The following excerpts from the report covering the third quarter of 1991 are illustrative:

"One deputy received a reprimand for failing to report the use of force and for failing to ensure that a suspect had adequate clothing before being transported."

"One deputy was given a four-day suspension for using unnecessary force."

"One deputy was given a 15-day suspension for staging a mock suicide."

"One deputy was discharged for firing his weapon into a residence following an off-duty traffic dispute."

"One deputy was discharged for continually engaging in games of Chess with inmates."

■

Third, failure to track force consistently and in a useful format disables managers from identifying officers with a propensity to use unnecessary force. A deputy who wields his flashlight as a weapon several times a month may, in some circumstances, require retraining, counseling, rotation to a less stressful shift or location or simply a vacation.

Fourth, the absence of a uniform, Department-wide force tracking system gives rise to an inference that the LASD puts a low priority on identifying and rooting out those who resort to excessive force. Some may infer that the LASD is uninterested in identifying deputies improperly using force or who needlessly place themselves in situations requiring force. An inability or unwillingness to detect abusive behavior in its infancy and take corrective action hurts both the LASD and the deputy himself. As one lieutenant put it, "Deputies try to read the bosses to figure out what they can and cannot do." If deputies know that management is interested in readily identifying the frequency of force, and can readily identify how a given deputy functions in the field as compared to others similarly situated, deputies will restrain their conduct accordingly.

Fifth, failure to document and track all uses of force disables the LASD from countering and putting to rest allegations by citizens' groups that either outright misconduct or questionable force is widespread within the LASD. An IAB officer's observation that "[s]ure, we've got some bad guys out there doing all kinds of stupid stuff," is no substitute for hard data. Our analysis of available LASD data shows that the Department has a relatively small (but nonetheless significant) number of individuals who use force exces-

sively and appear to get away with it time and again. It also shows that the vast majority of deputies appear to conduct themselves professionally. We can make these statements with assurance because we have the data to back them up. The LASD, however, could not make the same statements with equal credibility because the Department has not, until recently, seen fit to look.

Sheriff Block and his executive staff have made it clear that the LASD is now fully-committed to a state-of-the-art force tracking system. The idea of a Department-wide tracking system has been around at least since mid-1990, when the Sheriff's Task Force on Use of Force was established. The LASD plans to design and maintain a computerized tracking system to regularly "flag" officers with an increasing number of citizen complaints or a trend toward increasing force incidents. In addition, the LASD intends to make background information on each officer — from training, to assignments, to discipline, to commendation — available at the press of a button, with varying levels of access and confidentiality, to those who need to know some or all of the information.

In 1991, the LASD purchased several million dollars worth of new computers for this Department-wide tracking and early warning system. When we last looked, the only programs they could run were various computer games and the like. We repeatedly requested the documentation describing the contemplated early warning system.

Apparently, it does not yet exist. The LASD has designed "less an early warning **system** than an early warning **concept**," according to a knowledgeable LASD observer. The LASD officially envisions a fully-operational system within a year. More realistic projections from personnel in IAB place Department-wide implementation at least a year and a half to two years down the road.

In the meantime, many Department managers remain in the dark and do not have all of the information needed for considered personnel decisions. Worse, even as the LASD continues work on its early warning system, it continues thoughtlessly obfuscating vital information about patterns of force or misconduct. We turn now to the basic building block

of any force-reporting system -- the initial report by the deputy that force was applied.

A deputy must orally report any force he used, or witnessed being used by another deputy, to his immediate supervisor (usually the watch sergeant for that shift), even if the force did not result in an arrest. If the force resulted in an arrest, the deputy must also detail the force he used or witnessed in his arrest report. Nonarresting deputies also using force must describe their involvement in a "Supplemental Memorandum" to be appended to the arrest report. For reporting purposes, force is defined as "any physical effort used to control, restrain, or overcome the resistance of another."

After receiving the deputy's oral report, the watch sergeant must orally report to the watch commander. As a general matter, the watch commander will then make a brief notation of the incident and an initial assessment (e.g. "force used was reasonable and within policy") in the watch commander's log, known in most stations as "the Red Book." The Red Book is reviewed by the watch commander of the next shift and by the captain. However, LASD policy does not require station personnel to combine or compile the separate Red Book entries and make them available to those up the chain of command. Thus, unless a particular watch commander incidentally notes over time that a deputy is having an increasing number of force incidents, the data in theory available from the Red Book will go unnoticed and unacted upon.

Since November 1991, the LASD has required "significant" force to be more carefully investigated and documented. According to the LASD Manual of Policy and Procedure, significant force incidents are those in which:

1. the suspect is visibly injured;
2. the suspect complains of pain;
3. the watch sergeant determines from the circumstances that there is some indication of officer misconduct; or
4. the use of force is "significant" (e.g. the use of a taser or an Arwin (a rifle which

fires rubber bullets)).

Upon learning of a significant force incident, the watch commander must immediately examine and interview the suspect. If he or she has any reason to believe that the involved officer used unnecessary or excessive force, or that further investigation is necessary, the watch commander must file a "Supervisor's Use of Force Report" with the captain. The use of this form only began in November 1991. Prior thereto, for roughly a decade, there was **no separate written use of force form.**

The captain must review all Supervisor's Use of Force Reports to determine whether further investigation is warranted. The captain may request a criminal investigation by ICIB or a formal administrative investigation either by IAB or by the watch commander on duty when the incident occurred.

Whether or not a captain determines that an investigation is warranted, he or she must send the Supervisor's Use of Force Report to the Office of Professional and Ethical Standards (OPES) for eventual input into the contemplated early warning and force-tracking system. The data provided to OPES on these reports since last November will not become available for review or analysis for at least another 12 months.

It was only in March 1992 that the LASD began to systematically track citizen complaints of excessive force. Until then, oral or written complaints were handled only at the station level. If there was no formal investigation, stations were not required to keep the written complaints, and thus a substantial number of such complaints were discarded. Until very recently, LASD executives had no way to ascertain with any precision the number, character or location of citizens' complaints of excessive force or harassment.

On March 25, 1992, the LASD addressed this problem by issuing numbered "Watch Commander Service Comment Forms." These forms are to be completed by the watch Commander any time a citizen voices a complaint or makes a commendation. Copies are sent to the captain, the region chief, and the OPES commander. Compilations and analysis

of this information is not currently available to managers, and is likely not to be available for the next year or two.

We commend the LASD for requiring that all force, however slight, be reported. It deserves credit for its commitment to a Department-wide force tracking and early warning system. Such a system is a sine qua non of a modern, responsible police force. But, the system will be inadequate if all it reports is the information gleaned from the Supervisor's Use of Force Reports and the Watch Commander Service Comment Forms.

**These reports do not disclose all uses of force by LASD officers.** Although the Policy Manual requires that deputies must scrupulously report all uses of force, no matter how slight, the uses of force that are reported must pass through the filter of sergeants and lieutenants. Thus, if a watch commander determines that a use of force is not "significant" according to the Policy Manual, he will never fill out a Supervisor's Use of Force Report and the force will never be picked up by the OPES force-tracking system. One captain described this as "a potential tail-wagging-the-dog situation." The basic building blocks of the tracking system are (1) deputies, who may or may not report a use of force in the field and (2) the watch sergeants and watch commanders, who may or may not determine that a given use of force is "significant." Although we may assume that most watch sergeants and watch commanders will be scrupulous in their reporting, we may also assume that some number will not. We may also assume that some will make honest errors in judgment. Whatever the reason, underreporting by supervisors will seriously distort the picture presented to Department managers and executives.

Any rational system designed to identify and track deputies with a propensity to use force excessively should try to identify them at the earliest possible point. The current system only kicks in after "significant" force is reported: that is, only after deputies have hurt suspects or generated complaints of misconduct. This kind of tracking cannot fairly be called an "early warning system." The earliest warnings — such as oral reports to sergeants or Red Book entries by lieutenants — will not be detected by the contemplated

force-tracking system and thus will likely continue, as in the past, to go unheeded.

Accordingly, the LASD should track all uses of force no matter how minor. It is essential that this be done for the system to have any real early warning component. The LASD should also establish a "force scale" to differentiate between different levels of force. Deputies in particular worry that the tracking systems will cause them to be labelled as "heavies," with consequential anticipated negative implications on advancement and promotion. We agree. A system that does not differentiate between types of force may wind up equating someone who needs a lesson in manners with someone else who needs psychological reevaluation. Force may range from a gentle nudge to a blast of a shotgun. An effective early warning system must be able to so distinguish and to perceive movement along the continuum of force.

A force scale, combined with a reporting of all force, should help to correct for the current subjectivity in force reporting. Arrest reports with descriptions of force employed have been likened by those in the Department to creative writing assignments. Sergeants have admitted that not infrequently, they come across vague or implausible descriptions of force in arrest reports and have to send them back to deputies for "correction." It is also the case that arrest reports often contained canned descriptions of justified force — descriptions which stretch credibility after they are seen for the umpteenth time. Our staff reviewed countless arrest reports in which deputies rationalized throwing the first punch by stating that the suspect or inmate "assumed a combative stance," "tensed up" or made a "furtive gesture."

Putting together our views that a force scale be employed and that all force should be reported, we believe that the LASD should use a separate, computer-ready Use of Force Report ("UFR"). The UFR should require the deputy to check off the force used from a list of departmentally approved control techniques. It should also provide the name of the watch sergeant and watch commander on duty when the incident occurred. All UFRs should be logged into OPES's force-tracking and

early warning system. The use of a UFR will also have the side benefit of reinforcing the notion that force should be used only when verbal compliance techniques have failed or are futile. It will also provide training bureaus with a pool of consistent data which they can use to determine which control techniques work in real-life situations, and which do not.

We noted earlier that a captain has discretion whether or not to formally investigate a force incident reported on a Supervisor's Use of Force Report or in a citizen's complaint of excessive force. Occasionally under current practice, and often, we hope, under future practice, citizen's complaints will be resolved by the captain through mediation and conciliation. Nonetheless, we are uncomfortable with the notion that a captain has unbridled discretion not to initiate an investigation. **The captain's decision not to request a formal investigation should automatically be reviewed at least one step up the chain of command.**

As we have noted, the LASD's most optimistic estimates are that it will take at least a year to implement the modest system it has planned. Adoption of our recommendations may add to the time estimates. In the interim, the LASD cannot afford to be without a force-tracking system. The Department can and should take concrete steps to require each captain to document and track force at his or her station. Since August 1989, various stations, including Norwalk, Lakewood, Industry and Temple, have devised and implemented their own force-tracking systems. Varying in scope and dimension, the systems share a common aim: to fully document and track each actual or alleged use of force as it occurs.

### *Station Force-Tracking Systems*

The station force-tracking systems we examined are ingenious blends of determination and improvisation. For example, Lieutenant Louis Diot, a principal architect of the

early warning system used at the Lakewood and Industry stations, showed great ingenuity by jerry-rigging a force-tracking system with software that came free with a personal computer used by his family at home. Lieutenant John Radeleff, who designed the Norwalk tracking system under the direction of Captain Norm Smith, modestly concedes that he has not been able to master all the intricacies of DBase, but nonetheless came up with the most sophisticated tracking system used in the Department today. We believe that similar force-tracking programs can and should be implemented immediately at every unit in the LASD. The sidebar accompanying this text describes the Norwalk model. We think it works well, but we are not necessarily saying that it is the only such system that could be used. We leave that decision to management.

Our staff compiled some of the data from the Norwalk tracking system to demonstrate how it can provide managers with a bird's eye view of the activity at the station. Table 1 sets forth several analyses of data collected by Norwalk between August 11, 1989 and April 30, 1992. One useful piece of data is the distribution of force incidents by officer. Table 1 indicates that most deputies reported only 1 or 2 force incidents within a 31-month period. It also singles out one deputy who reported 19 separate force incidents.

Instituting a force scale also permits managers to differentiate between the types of force used. Table 2 sorts the Norwalk data by different levels of force. It reveals that the great majority of reported force incidents involved minimal, nonstriking force. It also suggests that Norwalk deputies are much more likely to strike suspects with their flashlights than with their batons. Such information is useful for purposes of evaluating weapons training.

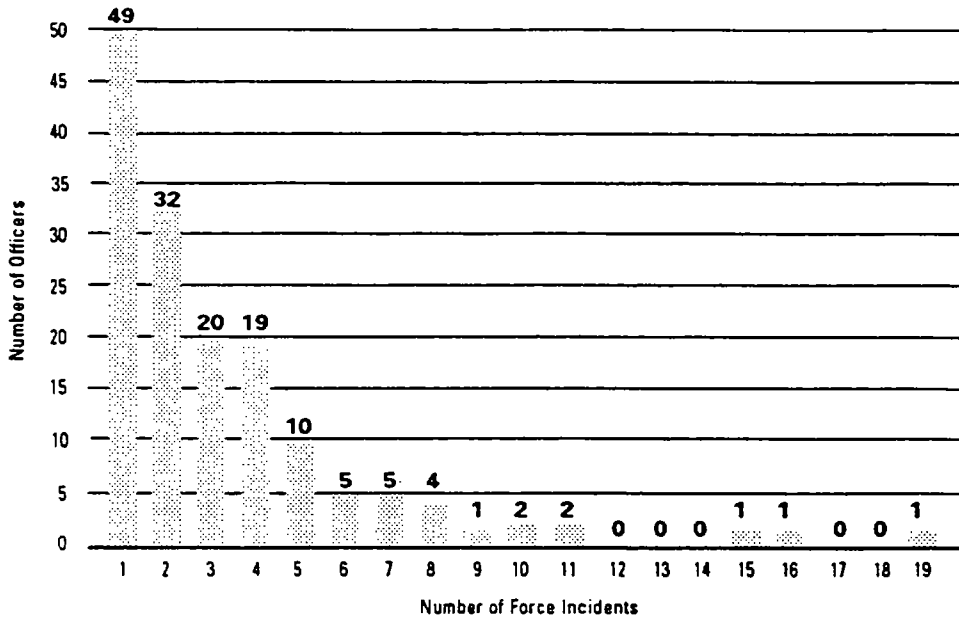
Finally, the Norwalk system permits managers to track incidents according to an "injury scale." Table 3 indicates for example, that 80% of the reported force incidents caused no actual or complained-of injury.

Perhaps the most encouraging piece of data to be gleaned from the Norwalk tracking system is the absence of even a single instance in which a citizen alleged a use of force



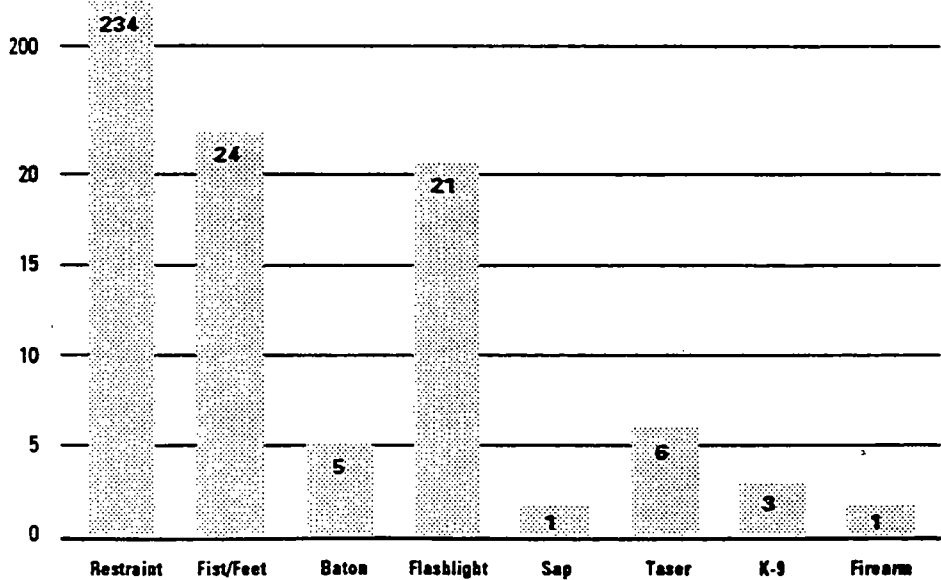
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Distribution of Reported Force Incidents by Officer Norwalk Station 8/11/89 to 4/30/92

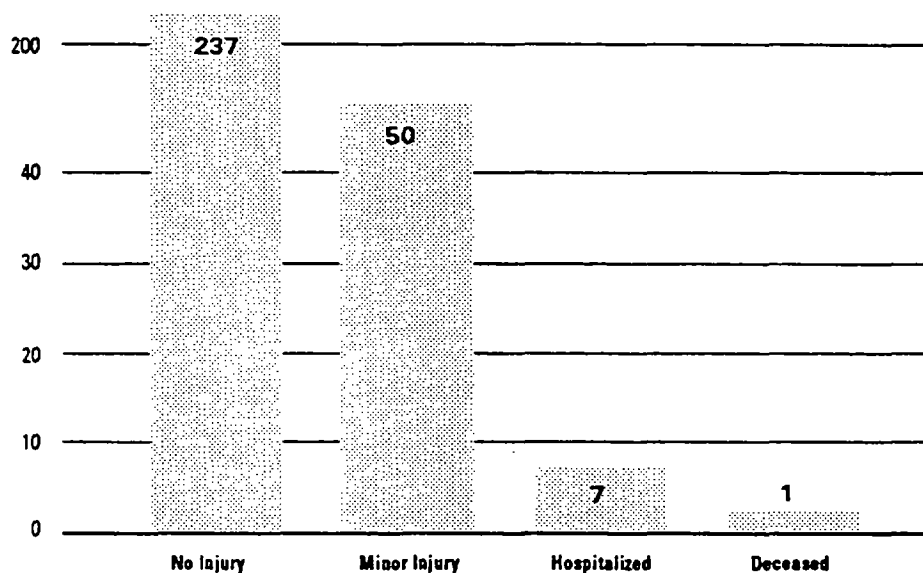


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Reported Force Incidents by Level of Force Used Norwalk Station 8/11/89 to 4/30/92



Reported Force Incidents by Injury to Suspect Norwalk Station 8/11/89 to 4/30/92



which was not reported by the deputy. Although no tracking system can guarantee that 100% of the force used on the streets or in the jails is reported, the Norwalk system apparently substantially reduces underreporting of force.

By and large, those lieutenants and captains who have implemented their own tracking systems report widespread acceptance by deputies. Several watch commanders and captains told us that on several occasions, deputies generating multiple entries on the tracking system “turned themselves in” and asked for help — admitting to problems at home, and in some cases, volunteering for desk duty. Such cases illustrate how these rather modest tracking systems signal to deputies that management wants to identify and address the problem of force and wants to deal constructively, helpfully, and non-punitively with people at risk for using excessive force **before a disaster occurs.**

We want to single out captains like Norm Smith at Norwalk and John Anderson at Lakewood for their tracking systems and Bob Mirabella, the recently-appointed captain

**Norwalk  
Force Tracking  
Policy**

If an officer in the field uses force, he must, as soon as is practicable, contact his immediate supervisor (usually a field sergeant). The supervisor then responds to the scene to identify and interview all potential witnesses. The supervisor also interviews persons at the scene who claim they did not see anything (in case at some later date they claim that they did witness the incident).

The suspect must be transported to a hospital for examination and/or treatment in cases where:

- (1) the suspect was struck upon, or suffered an injury to, his head— regardless how minor the injury may appear;
- (2) the suspect was choked — whether or not he lost consciousness;
- (3) the suspect was apprehended by use of a taser gun or Arwin rifle (which fires rubber bullets);
- (4) has visible injuries — regardless how minor;
- (5) the suspect requests medical treatment, — regardless of whether or not any injury is apparent; ←

of the Temple Station, for his. Within weeks of his arrival, Captain Mirabella instructed his sergeants and lieutenants to compile existing data on citizen's complaints, negative evaluations, IAB investigations and civil claims which lay scattered about the station. When our staff met with Captain Mirabella during his seventh week at Temple Station, he was able, even at that early date in his tenure, to show us a log he was keeping that measured deputy performance in a number of categories. He pointed out how the log was useful in determining good or bad candidates for Field Training Officer positions. Mirabella also showed us that a thinking captain need not be a slave to the numbers: Before he would make any important decisions, he thought it was incumbent of him to make a thorough inquiry and talk to the deputy in order to understand the situation. In other words, Mirabella was using the information as an early warning — not as a conclusive verdict of wrongdoing. The actions he planned to take — be they warnings or offers of assistance and support — were calculated to prevent future problems rather than to merely punish. We think that his well thought-out approach should be emulated throughout the LASD.

*Tracking Other Data For Early Warning Purposes*

Data regarding civil lawsuits, criminal investigations, administrative claims and the various kinds of internal administrative investigations should be tracked and integrated into the early warning system that is currently being planned. Officers repeatedly investigated for excessive force tend to overlap with those who

expose the Department to civil litigation and who generate citizen's complaints. **LASD executives do not currently have this integrated data available to them, and their decisions suffer from it. Worse yet, they continue, on an almost weekly basis, to routinely erase records of certain investigations. Captains cannot possibly prevent litigation or get early warning of potential problems unless they have specific, concrete data indicating who uses force, who generates lawsuits and how often.**

State law requires that Unit and IAB investigations be kept a minimum of five years. The LASD abides by that statutory minimum and routinely destroys investigative files more than five years old unless there is pending litigation over the incident in question. Once a file is destroyed, the Department's access to information about the incident is severely limited. If the citizen's complaint is determined to be "founded," a Department letter imposing the discipline and describing the circumstances of the incident is placed within the officer's personnel folder. But if the citizen's complaint is either "unfounded," "unsubstantiated" or "closed" (which occurs roughly 94% of the time), the only permanent record of the incident is a 3" x 5" "IAB Subject Card" which describes the alleged misconduct only by referring to the section of the Policy Manual implicated by the allegations (e.g., Use of Force, General Behavior, Conduct Toward Others).

IAB Subject Cards provide managers with almost no useful information regarding unsustained complaints. Our review of Unit- and IAB investigative files revealed that the terse captions on IAB Cards — such as "General Behavior," or "Conduct Toward Others"

**(6) the suspect alleges substantial force was used against him — whether or not he has any apparent injury or requests medical treatment; or**

**(7) the prisoner alleges any injury, whether or not he has any apparent injury or requests medical treatment.**

**All doubts regarding the need for medical treatment are resolved by taking the suspect to the hospital. If the suspect declines medical treatment, he must personally inform hospital personnel of his decision.**

**In all cases where the suspect is taken to the hospital for examination or treatment, the supervisor must go there and interview medical personnel to determine whether the suspect's injuries are consistent with the degree of force reported by the deputy.**

**Regardless of the amount of force used or the injuries (if any) sustained, the watch commander (usually a lieutenant) for that shift must, with extreme priority, interview the suspect in all cases where force was used. All such interviews must be either videotaped or audiotaped. If he is unable to videotape the interview, the watch commander must take still photographs of the suspect, paying particular attention to the known or alleged areas of injury.**

**For all use of force investigations, the responsible watch commander must assemble a "force investigation package" for review by the captain. The package contains all supervisory reports, medical reports, photographs, audiotaped and/or videotaped interviews, and any other pertinent materials. The watch commander must also include a detailed memorandum detailing the findings of the investigation. Force investigation packages are stored indefinitely at the station for reference in the event of future litigation or internal investigation.**

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**All reported uses of force are logged on a station computer database. Each entry lists the involved officer(s), the reporting number for the arrest, date and shift on which the incident occurred, the type of injury (if any) sustained, and the level of force used. Injuries fall into four categories: (1) no injury; (2) minor injury, medical treatment, suitable for station booking; (3) injury requiring booking at the hospital; and (4) deceased.**

**Force is broken down into nine categories: (1) allegation by suspect that force was used; (2) restraint, forcing to ground, no blows struck. (3) fist or feet; (4)**

— masked serious allegations of misconduct. For example, one IAB Subject Card described as "False Statements" a 1991 incident in which deputies at the Men's Central Jail placed a tattered training dummy with exaggerated Negro features and the word "Coon" scrawled across its chest in full view of African American inmates. Another IAB Subject Card described as "Safeguarding Prisoners" a 1990 incident in which a recalcitrant suspect was subject to torture-like abuse. In that case, the deputy had transported a suspect to the hospital to be treated for cuts sustained from several assertedly accidental flashlight blows the deputy had applied to the suspect's head. When the suspect refused to sign a hospital release form, the deputy hogtied him, removed the back seat of the patrol car and placed the suspect on the rear floorboard. The deputy then left the suspect there with the car engine idling for 45 to 60 minutes. Within minutes, the engine heated the floorboard to temperatures exceeding 140 degrees, severely burning the suspect's chest and abdomen. If either of these incidents had occurred before 1986, our staff would have been completely unaware of them because the investigative files would have been routinely sent to the shredder after five years. The Department is thus remiss to the degree it relies solely on the meager details provided on IAB Subject Cards for background checks on candidates for promotion and transfer.

The LASD also continues the practice of "uncarding" officers — i.e., destroying the IAB Subject Cards which indicated that the officer was ever investigated for alleged excessive force. Current policy permits captains or region chiefs to "uncard" officers if they determine one of the following conditions exist:

1. The subject was not present when the alleged act occurred;
2. The subject was not involved, directly or indirectly, in the alleged incident;
3. The alleged incident did not occur;
4. The complaint concerned matters of procedure and there was no wrongdoing by Departmental employees.

Although these four conditions may provide a basis for a determination that a complaint is "unfounded," they do not provide a basis for erasing all traces that the investigation ever took place. The most widely-cited reason by Department officials for uncarding is that officers should not have their reputations soiled by frivolous allegations of misconduct. When asked why a determination of "unfounded" did not suffice to cure that problem, several officials replied that in many instances, when two equally-qualified officers compete for a position, the officer with the fewest number of investigations is likely to win regardless of the investigations' outcome.

If that is the case, then the practice of uncarding may work real injustice against deputies. Assume that deputies Y and Z are equally qualified for a promotion. Over the last 10 years, deputy Y has been investigated 8 times for citizen complaints all determined to be unfounded. Over the same period, deputy Z has been investigated four times for citizen complaints, all determined to be unfounded. Six of the investigations against deputy Y have been uncarded. None of the investigations against deputy Z have been uncarded. A captain then asks for a routine IAB background check on both officers. IAB reports that deputy Y has only 2 cards of unfounded

(4) baton; (5) flashlight; (6) sap; (7) taser/Arwin; (8) canine; and (9) firearm.

At the end of each month, the captain receives a printout listing all force incidents. The printout enables the captain to identify deputies who use force frequently or who use high-level force. The captain is thus put on notice that the deputy may be in some sort of trouble, and may call the deputy into his office for a word or two.

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investigations, while deputy Z has 4. The executive, erroneously believing that Y has fewer citizen complaints than Z, gives him the promotion.

Our review of Unit and IAB investigative files also revealed that the practice of uncarding can be subject to abuse. We found several instances in which cases ultimately determined to be "unsubstantiated" (i.e. the evidence was not sufficient either to prove or disprove misconduct) nonetheless resulted in the uncarding of officers. In other cases, we could find no explanation for uncarding the officer. One such case arose out of a 1991 jail fight. An inmate had either accidentally or intentionally dropped his lunch tray and spilled some food on a deputy in the mess hall. A scuffle ensued, and several deputies responded, raining the inmate with punches. The deputies then dragged the inmate outside to a hallway, beat him some more and eventually handcuffed and hogtied him. During a Unit-level investigation, one deputy present in the mess hall admitted punching the inmate once in the face. The captain uncarded that deputy, claiming that the deputy was not involved in the incident. When a member of our staff asked two IAB officers whether the captain had made a clerical error and misidentified the deputy to be uncarded, both replied that uncarding was proper because the "complained-of incident" was the beating in the hallway outside the mess hall in which the deputy had not participated. Such hair-splitting not only provides Departmental executives with a distorted view of deputies' use of force, but also reinforces the public's view that the LASD will go to great lengths to "take care of its own."

### *Recommendations:*

**Any effective force-tracking system must be able to identify the fact patterns giving rise to formal investigations. Accordingly, we make the following recommendations:**

**The LASD should track all force on a written Use of Force Form with a Force**

**Scale.**

**Computer data from all investigative bureaus — ICIB, Homicide, IAB and the Civil Litigation Unit should be integrated and reports presented should be distributed to executives and managers on a monthly basis. Such reports should indicate which officers and stations have an unusually high level of force, complaint or lawsuit activity.**

**All investigative files should be retained indefinitely. They can be microfilmed to save space. In addition, IAB should replace the card file with a more extensive system in which hard copies of the IAB Findings and the ultimate disposition are available for review. Supervisors requesting an IAB background check on an officer should thus receive a "force package" which includes, for each IAB investigation, a copy of (1) the citizen's complaint, (2) the findings issued by the investigator and (3) the disposition sheet stating whether the allegations were sustained.**

The force package will thus enable supervisors to determine whether successive investigations reveal a pattern of conduct (e.g., repeated allegations that the officer struck handcuffed suspects).

**The practice of "uncarding" should stop. A determination of "unfounded" should be sufficient to indicate that a citizen's complaint is devoid of merit, especially if the rationale for the complaint being unfounded is provided in the disposition sheet.**





## 11. Headstrikes Policy

During our review of LASD internal investigation files and litigation files, we were concerned by the large number of cases in which officers hit suspects or inmates in the head with impact weapons such as flashlights and batons. Virtually all of the files we reviewed indicated that the suspects posed no immediate danger to the deputy's life. In many cases, the suspect was either trying to flee or was no longer aggressively attacking the deputies when struck on the head. Nonetheless, almost without exception, the deputies were neither disciplined nor referred for retraining.

The seriousness of headstrikes with impact weapons is perhaps most chillingly illustrated in the 1990 beating of an inmate by a group of deputies at the Hall of Justice Jail. The inmate, a paranoid schizophrenic, became involved in an argument with a deputy while standing in line for lunch. According to witnesses, a deputy removed the inmate from the line for refusing to follow directions. The inmate then allegedly responded by grabbing the deputy's shirt. In the ensuing scuffle, at least four deputies hit the 150 pound inmate with punches, kicks and flashlight blows to the head. A jail nurse arrived at the scene to find the inmate lying in a pool of blood and convulsing from a seizure. The inmate then slipped into a coma, only to awaken with brain damage.

The involved deputies stated in their initial reports that the inmate's mental illness made him difficult to restrain. However, the physician who treated the inmate noted that he "was small in stature and it is highly unlikely that he demonstrated any superhuman strength that was reported at the time of the initial alleged altercation." In June 1992, the County settled a lawsuit arising out of the beating for a near-record \$1.75 million. The Department also announced that it was discharging four deputies for using excessive force.

As this beating indicates, headstrikes with flashlights or other impact weapons amount to deadly or at least potentially deadly force. A summary of some of the headstrikes which were deemed to be "in policy" after internal administrative investigations indicates that the Department has no clear guidelines for identifying those situations in which headstrikes are clearly inappropriate.

## *Case 1*

Citizen A was sitting in a car outside a tavern when a deputy shone his flashlight through the window and peered inside. Although the deputy had received no call concerning a suspicious vehicle, the deputy ordered A to exit his car. As A exited, the deputy struck him on the head with a flashlight. Citizen A fell to his knees and again was struck on the head with a flashlight. Two independent witnesses corroborated A's story that the beating was unprovoked. During the course of a criminal investigation of the incident, the deputy admitted the two blows. He claimed, however, that he swung his flashlight only after A, who was unarmed, assumed a "combative stance." He further claimed that he aimed both blows at A's shoulder, but A moved his head in the path of the flashlight. A second deputy on the scene remarked to criminal investigators that he turned his head away because the headstrikes made him sick to his stomach. The D.A.'s office declined to prosecute the deputy for assault under color of authority. Thereafter, an LASD administrative investigation determined that the allegation of excessive force was unsubstantiated.

## *Case 2*

Citizen B led deputies on a low-speed chase after refusing to pull over for an alleged traffic violation. The deputies forced B's car to a stop and blocked it from moving. The deputies found citizen B staring straight ahead while gripping the steering wheel with both hands. When B failed to respond to commands to exit the car, a deputy broke the driver's window and repeatedly struck B on the head with his flashlight. During the course of an administrative investigation of the incident, the deputy explained that he struck B in the head in order to loosen his grip on the steering wheel. B's complaint of excessive force was found to be unsubstantiated.

Several former and current LASD officers who spoke with our staff agreed that the LASD provides little guidance on the appropriateness of headstrikes. A former LASD officer recounted an instance in which a deputy intentionally struck a suspect on the head with a flashlight to prevent the suspect from throwing down a vial which the deputy believed contained PCP. In other words, the deputy used deadly or near-deadly force to prevent the commission of a misdemeanor offense — destruction of evidence. The lieutenant pointed out that not only was the headstrike “grossly excessive” under those circumstances, but it also caused the vial to drop and shatter, thereby causing the very event the deputy hoped to avoid. The lieutenant’s request for a formal investigation of the incident or at least retraining of the deputy was denied.

In response to our questions about the lack of a department-wide policy regarding headstrikes, LASD officials said that although the Department had no formal policy against headstrikes in its Manual of Policy and Procedure, its training materials constituted a de facto policy against the use of headstrikes. If that is indeed the case, then the “de facto policy” is apparently not working.

The Department’s reluctance to include an unambiguous headstrikes policy in its policy manual is difficult to understand. The policy manual **does** explicitly discuss shootings. Headstrikes with impact weapons can inflict serious physical damage, and expose the Department to substantial civil liability, just like officer-involved shootings. Accordingly, they deserve specific attention.

### *Recommendations:*

**We recommend that the LASD clearly articulate its policy regarding headstrikes in its Manual of Policy and Procedures. We believe that at a minimum, the policy should state that “intentional head strikes with any impact weapon are strictly prohibited unless deadly force is justified under the same circumstances.”**

**We further recommend that tracking systems should identify those officers who have either intentionally or unintentionally struck suspects in the head with impact weapons.**

While intentional headstrikes are a serious problem, accidental headstrikes deserve equal attention. One recently-retired LASD officer with more than two decades of patrol experience estimates that unintentional headstrikes occur far more frequently — perhaps as much as three or four times more frequently — than intentional headstrikes. He further complained that as a supervisor, he had no guidelines to deal with cases where a deputy unintentionally strikes a suspect three to five times in the head. That lack of guidance continues to exist. **We therefore recommend that the LASD make avoidance of unintentional headstrikes a training priority. Furthermore, the LASD should investigate an officer who accidentally strikes a suspect more than once in the head with an impact weapon to see if he or she should automatically receive refresher training in avoiding the use of head strikes.**





## 12. Conflicts & Disincentives

Sheriff Block has made clear to his Department that if it ever comes to a choice between imposing discipline on an erring officer or declining to do so out of fear of the consequences on litigation the LASD is to choose to impose discipline. The Sheriff has clearly made the right choice, but it should not be overlooked that the choice he made is a difficult and risky one.

In the past, the LASD may not have gone so far as to decline to discipline clear misconduct, but it has been very reluctant to create a paper record that could provide ammunition for plaintiffs' lawyers. There are few top LASD managers whose wish list of recommendations does not include legislation which would keep the results of investigations and subsequent disciplinary, remedial and corrective measures out of the hands of the plaintiffs' bar and out of court.

As a result, out of concern about a paper record, the LASD would often delay administrative investigations of misconduct until litigation arising from that misconduct was over. By that time, the deputy in question may either have gotten into more trouble or the event may have receded so far into the past that discipline was no longer feasible or meaningful. This practice also had the unintended consequence of making it much more difficult to defend litigation. Because there was no timely investigation, valuable testimony, names of witnesses and evidence was at times forgotten or misplaced by the time the matter came to trial, perhaps forcing cases to settle that otherwise had meritorious defenses.

If discipline is accomplished out in the open with speed, fairness and integrity, the public perception that the police cannot police themselves will fade. If, on the other hand, a department suppresses bad facts about its officers, fails to investigate and declines to impose discipline for fear of giving ammunition to plaintiffs, the reluctance to police themselves creates a strong incentive for civilian oversight.

We perceived certain internal conflicts at the LASD. The people who investigate possible misconduct can be the same people charged with developing evidence to defend the LASD in litigation arising from that misconduct. The tensions that naturally arise in



these two roles may produce skewed results. Accordingly, we believe that the internal investigations and defensive investigations be separated and separately staffed.

Along the same lines, if the public agencies that pay the bills for liability put undue pressure on the LASD to avoid large payouts, the consequence may be to encourage suppression of investigation and discipline on the theory that if the plaintiff cannot prove his case through LASD investigatory and disciplinary records, he may not be able to prove his case at all.

We see the same potential for conflict being present at least in theory in the legal advice the LASD may receive from County Counsel. County Counsel also represents the County and the Board of Supervisors. We wonder at times if County Counsel, representing the LASD, can strongly advocate terminating an officer for misconduct knowing at the same time that the fact of termination may increase the exposure of the County in litigation arising from that misconduct.

Another potential conflict exists when County Counsel represents both the LASD and a deputy and learns information from the deputy indicating that the deputy is guilty of conduct punishable by the LASD. Should County Counsel keep that information from the LASD?

There is also the situation where the County has made the decision that a deputy and the LASD require separate representation because of an actual or potential conflict. The interests of the deputy and the Department then may differ. The deputy will want the County to settle with the plaintiff. We ask ourselves what happens if the deputy wants to use information helpful to the County's defense as a bargaining chip to get the County to forego heavy discipline for the underlying misconduct. We do not know if County Counsel can recommend the bargain to the County knowing that it prejudices the interests of the LASD.

We raise these issues because they pose practical, every day problems. **We recommend that consideration be given to whether it is appropriate for County Counsel**

to continue representing both the County and the Sheriff's Department as it does currently.

The Board of Supervisors and the public should recognize that one of the consequences of Sheriff Block's choice may lead, in the short run, to larger judgments or settlements.

If the Department is doing its job of increasing the integrity of its investigations and imposing discipline more widely and uniformly, there may be a rise in litigation over past misconduct and related judgments and settlements. It will take patience and statesmanship to recognize that the rise is a temporary phenomenon, a momentary unwelcome side effect of movement in the right direction. We believe the County should not take the LASD to task for the costs associated with cleaning up the past.

Finally, we should take account in general of the rise in litigation against the police. It is a reflection of the litigiousness of our society in general and of Californians in particular. It is a reflection of an American penchant to legislate both broad rights for the courts to redress, and broad monetary and other sanctions for the courts to impose.

The threat of litigation can be a powerful vehicle for correcting misconduct. But it can also be a powerful disincentive for the LASD to investigate and police itself. The LASD understandably does not like the idea of doing a thorough investigation, documenting the results and taking steps to correct a problem, only to have it all used against the Department in litigation. This problem is somewhat beyond our charge, but we believe it merits further study.

### *Recommendations:*

**Internal investigations and defensive investigations should be separately staffed.**



## 13. Recruitment & Affirmative Action

### *Composition of Department*

As of May 8, 1992, the Department has 8,010 total sworn personnel. Of this total, 999 (12.47%) are female and 7,011 (87.53%) are male. The Department's sworn personnel are predominantly Caucasian (72.37%) and are also predominantly Caucasian male (64.87%).

To change the approximately 35% non-Caucasian male composition of the Department will require significant, committed and sustained effort. We were anecdotally advised that to date, despite the Department's affirmative action program efforts, approximately 70% of the applicants continue to be Caucasian male. Affirmative action efforts appear to have had reasonable success to date in recruiting African-American sworn personnel. African-Americans, who represent 10.87% of the County's civilian labor force, currently represent 8.89% of total sworn personnel.<sup>1</sup> Reasonably successful recruitment of African-Americans for sworn positions appears to have been a long-standing achievement of the Department, as they represent 9.39% of sworn personnel with 10 or more years of Department service.

Female, Hispanic, Asian, and what the Department refers to as "Other" recruitment has fared less well compared to their representation in the County's civilian labor force. The Department's recruiting staff is aware of this and has made some efforts to increase recruitment from the minority communities. However, we are not aware of any special programs to increase the number and percentage of female applicants.

Hispanics as of May 8, 1992 represent 16.18% of total sworn personnel, and 13.52% of sworn personnel with 10 or more years of Department service. By contrast, Hispanics represent 24.55% of the civilian labor pool. Asians, who constitute 6.12% of the civilian labor pool, represent 2.0% of total sworn personnel, and 1.72% of sworn personnel with 10 or more years of Department service. The undesignated "Other" category represents only 0.54% of total sworn personnel, and 0.22% of sworn personnel with 10 or more years of Department service.

If the recruiting staff's observations are correct that about 70% of applicants continue

to be Caucasian male, and since about 65% of the Department's sworn personnel as of May 8, 1992 are Caucasian male, **recruitment of women and minorities, especially Hispanics and Asians, is unlikely to be improved significantly without a major, consistent drive to do so.** That drive appears to have begun, should continue, and must be substantially expanded.

Caucasian males in 1980 represented 32.88% of the County's total civilian labor force. That percentage presumably is less today, given the likely increase in the County's minority labor force since those 1980 Census figures. For reasons of perceived as well as actual fairness of minority and female representation in the Department, decreasing the May 8, 1992 Caucasian male representation of the Department's sworn personnel of 64.87%, which is at a level of almost twice the Caucasian male representation of the County's total civilian labor force 12 years ago, warrants this investigation's and the Department's serious attention.

This is especially so since the Department may soon experience a level of increased competition with other local law enforcement agencies for qualified women and minority applicants for sworn personnel positions. Given the disadvantages the Department may already have in such competition, such as mandatory initial service of newly hired sworn personnel in the County jail system, discussed in Chapter 17, we believe that the Department must strengthen its efforts to increase the number and percentage of women and minority recruits.

### *Bilingual Personnel*

The Department serves many communities which are predominantly non-English speaking. The Los Angeles Times reported that 54.6% of all residents of Los Angeles County do not speak English at home. While accurate figures are not available for rates of non-English speaking broken down by station, it is known that these rates are high at

the Firestone and Lynwood stations and, to a lesser extent, at the Norwalk, Temple City, Industry and Pico Rivera stations.

In order to provide effective and sensitive policing to these residents, the Department is in great need of bilingual personnel. Unfortunately, its current bilingual resources are seriously outstripped by the need for bilingual services. Out of 8,010 sworn personnel, the Department currently has only 566 with bilingual capabilities of whom 556 speak Spanish. Other languages spoken are Chinese (3), Cantonese (1), Korean (1), Vietnamese (1), Armenian (1), German (1) and sign language (2). As a result, the Department has a serious inability to communicate effectively with large portions of the communities it serves.

The Firestone station, which has the highest concentration of monolingual Spanish-speaking residents, has only 19 Spanish-speaking deputies out of a total of 116. The Lynwood Station, which has the next highest concentration, has only 13 bilingual deputies out of 150. Of the custody facilities, Sybil Brand appears to have the greatest shortage of Spanish-speaking personnel, with only 5 bilingual deputies out of 230.

The importance of bilingual ability is graphically illustrated by a recent incident. In April 1991, deputies in the Firestone area stopped a man for speeding. According to witnesses, when the deputies asked him to exit the car, he answered — in Spanish — “I’m handicapped.” He must wear leg braces in order to walk, or even to drive. The deputies, neither of whom spoke Spanish, yelled at him to exit his car. The man then reached down to pull his left leg out of the car. One of the deputies, apparently believing that he was reaching for a weapon, struck him on the head with the butt of his gun. The man fell out of the car and was struck once more in the head. His complaint of excessive force was determined to be “Unsubstantiated.” He has filed a civil claim against the County.

On several ride-alongs, we observed genuine exasperation in citizens’ faces when they made a 911 call in Spanish, were referred to a bilingual dispatcher, but found that the deputy responding to their 911 call did not speak Spanish. A number of officers we rode with did, however, know the Spanish for, “How many beers have you had?” “Empty your

pockets." "Put your hands on the hood," and "Place your hands behind your back. Now!"

The Department's current efforts to increase its bilingual capacity are limited to a small bilingual salary bonus and a brief Spanish course at the Academy. These efforts pale beside the ongoing need for bilingual capability. Substantially more bilingual deputies are needed not only in predominately monolingual Spanish areas but also in those Department service areas heavily populated by other non-English speaking residents.

Increasing the Department's bilingual capacity will require a comprehensive program of training, larger salary bonuses and greater use of unsworn personnel.

### *Recent Hiring*

Hires for 1991 numbered 875, of whom 14.86% were women, 6.40% were African-American, 23.09% were Hispanic, and 2.97% were Asian. In addition, Two Native Americans were hired, as were two people in the Department's "Other" category. Of the 1991 hires, 67.09% were Caucasian, and 58.06% were Caucasian males.

While women overall constituted 14.86% of total 1991 hiring, Caucasian women represented 13.46% of total Caucasian hiring. By contrast, African-American women represented 25% of African-American hiring, and Hispanic women represented 17.33% of Hispanic hiring. Asian women were only 7.69% of the total Asian new hires.

Hires for 1990, by comparison, numbered 747, of whom 19.28% were women, 6.83% were African-American, 23.69% were Hispanic, and 3.21% were Asian. In addition, four people in the Department's "Other" category were hired. Of the 1990 hires, 65.73% were Caucasian, and 54.62% were Caucasian males.

While women overall constituted 19.28% of all 1990 hiring, Caucasian women represented 16.90% of total Caucasian hiring. By contrast, African-American women represented 39.22% of African-American hiring, and Hispanic women represented

22.60% of Hispanic hiring. Only 1 Asian woman was hired among the 33 total Asian new hires (3.03%). Both the 1990 and the 1991 data suggest that efforts aimed at recruiting more women should not neglect the Caucasian or Asian communities.

We also reviewed the proportion of applicants in each group who were actually hired by the Department, as set out in the adjacent chart:

% of Applicants hired	1990	1991
Caucasian males	5.02%	4.35%
Caucasian females	6.05%	4.18%
African-American males	.91%	.86%
African-American females	1.60%	.81%
Hispanic males	3.16%	2.61%
Hispanic females	4.80%	2.99%
Asian males	4.09%	2.50%
Asian females	1.23%	1.54%

The 1991 data do not reveal significant disparities in the hire to applicant ratios of men and women within the same race or ethnic group. There are, however, significant disparities in the hire to applicant ratio of minority groups compared to Caucasians, especially for African-Americans.

The 1990 data reveal significant disparities in the hire to applicant ratios of men and women within the same race or ethnic group for Caucasians, African-Americans, Hispanics, and Asians. Moreover, similar significant disparities in the hire to applicant ratio of minority groups compared to Caucasians seen in the 1991 data appear again in the 1990 data, especially for African-Americans, Hispanics and Asians. The selection criteria, discussed below in Chapter 14, may be having an adverse impact on these groups.

### *Written Examination*

One explanation for the hire to applicant disparity for minorities is that there is a substantial disparity between applicants who initially apply for positions, those who actually appear to take the Department's written applicant examination and those test takers who pass that examination.

As can be seen from the data on the following chart, the written examination is a high hurdle, eliminating 60 to 87% of initial applicants. While some number of initial applications probably are not serious, it is noteworthy that the written examination procedure by itself seems to eliminate



60 to 70% of Caucasian initial applicants, but seems to eliminate approximately 85% of African-American initial applicants, 80 to 85 % of Hispanic initial applicants, and 70 to 87%

	1990			1991		
	Applicants who appeared to take exam	Exam takers who passed exam	Initial applicants who passed exam	Applicants who appeared to take exam	Exam takers who passed exam	Initial applicants who passed exam
Caucasian Males	58.17%	62.09%	36.12%	61.59%	64.76%	39.89%
Caucasian Females	58.85%	67.20%	39.55%	49.02%	70.67%	34.53%
African-American Males	37.10%	36.09%	13.69%	39.21%	40.57%	15.91%
African-American Females	34.88%	40.83%	14.24%	29.46%	45.78%	13.48%
Hispanic Males	48.99%	44.19%	21.60%	48.19%	45.75%	22.05%
Hispanic Females	46.10%	49.22%	22.69%	32.05%	48.00%	15.38%
Asian Males	53.38%	54.33%	29.00%	50.05%	51.67%	25.86%
Asian Females	29.63%	41.67%	12.35%	39.23%	52.94%	20.77%

of Asian initial applicants. These data warrant a prompt and professional job content validation of this written examination in order to determine whether the examination is unfairly screening out minority applicants by testing for attributes which are not job-related.

### *Effectiveness of Recruitment Efforts*

Very little hiring of sworn personnel seems to have taken place in 1992, presumably due to current County budgetary limitations. We believe the Department's recruiting staff should use this temporary period of markedly reduced hiring to obtain expert assistance in planning and implementing substantially more imaginative and effective methods to increase female and minority recruitment. This is especially warranted in the Hispanic and Asian communities, and for female recruits generally, with a particular focus on the Caucasian and Asian female communities.

Increasing the representation of female, Hispanic, and Asian sworn personnel without neglecting the Department's long-standing and reasonably successful recruitment

and retention of African-American sworn personnel should continue to be the major focus of recruiting staff activity. **However, the efforts devoted to those ends must surpass the traditional affirmative action program activities.**

The major focus of recruiting efforts to date for minority and female applicants seems to have been traditional efforts such as broadening the number of job fairs which the recruiting staff attends, as opposed to serious study about how to market the Department's recruiting efforts to the appropriate audience for this purpose. The ineffectiveness of these traditional efforts in recruiting for law enforcement was dramatically documented in a Los Angeles Police Department study which found that only 1.9% of recruits learned of job openings through newspaper advertisements, while over 64% learned of openings through police officers, friends or relatives.

The LAPD also found that more than 50% of job applicants decided to become an officer at least five years before actually joining the force. This means that major marketing efforts are warranted in county high schools and junior high schools.

**The Department must become substantially more proactive in marketing Department careers to its appropriate recruiting audience, especially among women generally and in the Hispanic and Asian communities.** Those efforts are necessary in order to overcome not only current but also projected recruitment barriers, including a substantially reduced labor pool in the appropriate age group by the year 2000 and dramatic increases in the proportion of minorities in the labor pool. **If there are attitudinal barriers to careers in law enforcement that some women or some minority group members may have, they can be lowered only through well advised and implemented plans aimed directly at changing those attitudes.**

Echoing the finding of the LAPD study, minority officers within the Department stress the importance of "word of mouth" recruitment efforts, and point, for example, to some recent successes in increasing recruitment of Asians through a concerted outreach by Asian officers to possible applicants. But whatever the plan, **vigorous and sustained activities**

are required to accomplish the goal of increasing female and minority group recruitment, driven by a sense of what may be called rational urgency. Both internally and community-wide, the Department is viewed as lacking a sense of urgency about this goal.

*Recommendations:*

1. The Department should conduct professional job content validation of written pre-employment examination to determine if it is inappropriately screening out minority applicants.

2. The Department should conduct substantially more proactive, imaginative and effective recruitment efforts for females and minorities, and particularly for Hispanics and Asians and for Caucasian and Asian females.

3. The bilingual salary bonus should be increased to 5 1/2% for bilingual deputies working in areas with a great need for bilingual services.

4. For those deputies who desire to qualify for the bilingual bonus, the Department should pay the tuition for outside language courses.

5. The Department should hire bilingual community services workers from the communities with great need for bilingual services.





### *Weight*

Besides the written examination hurdle, one additional potential barrier which people inquiring about positions with the Department have faced has been the weight scale. The Department has a balance beam weight scale in the recruiting office, with a height/weight chart attached to it. We were advised that potential applicants who weighed in excess of 15% above or below that chart's weight range for their sex and height were not permitted to apply formally. They were told to return when their weight fell within that range. We were advised anecdotally that this height/weight chart adversely affected more men than women, with no discernible adverse affect on any specific minority group or minorities generally.

On and after July 26, 1992, the effective date of the employment provisions of the U. S. Americans With Disabilities Act, such an initial barrier as a height/weight chart presumably becomes unlawful. We were told that the Department has stopped using this scale or the height/weight chart for that reason, although neither the scale nor the chart has been removed.

### *Physical Fitness*

Of more concern to the Department than the appropriate weight of applicants has been the perceived need to compensate for their less than desired state of physical fitness. Concerned that successful applicants entering the Department's training academy were not meeting the academy's rigorous physical training requirements, the Department wisely established physical fitness programs for interested applicants and potential applicants. The purpose of these programs, which meet three times per week in several locations, is to increase upper body strength, overall physical stamina and endurance for both men and women.

The recruiting staff's goal is to help the applicants and potential applicants "get in shape" for the physical training rigors of the Academy, as opposed to any desire we

perceived to recruit and hire only the athletically inclined. Our inquiries as to whether physical fitness standards adversely impacted recruitment of women generated responses that these physical training programs were established because too many male applicants were failing to complete the Academy's physical training. We were told that a higher percentage of female applicants are in good physical condition when they apply than of male applicants. In any event, these physical fitness programs help applicants of both sexes become prepared physically for the rigorous academy training.

We recommend that these physical training programs be part of a concerted marketing program that seeks to increase the number and percentage of female and minority, especially Hispanic and Asian applicants. Women in particular, along with many men, may be relieved to learn that they can consider careers with the Department despite the fact that they may be neither physically imposing nor aggressively athletic.

### *Disqualifying Criteria*

The recruiting staff strives to hire "stable" applicants. This quest for perceived "stability" seeks to exclude drug users, as well as applicants who have poor driving records, substantial credit problems or tendencies toward violence.

Many applicants apply for Department positions, but few are selected. In 1991 the 875 total hires were selected from among 30,058 applicants. This means that in 1991 only 2.91% of the applicants were hired. In addition to the high initial applicant elimination rate caused by the written examination, the applicants' drug use, driving record, and credit record also eliminate a large percentage of applicants who do pass the written examination.

The Department's 1991 calendar year statistics indicate that only 49.17% of initial applicants appeared for the written examination, and that only 56.15% who appeared to take the examination passed it. That means that only 27.61% of the initial applicants

ultimately passed the written examination.

After the written examination hurdle eliminated more than 72% of the initial applicants, 5.92% of the successful test takers failed the prescreening process, and another 19.50% failed the oral examination. As a result 20.59% of the initial 30,058 applicants survived the written examination, prescreening, and oral examination process and were sent to what the Department calls the "background process."

In the background process, 66.35% of the surviving applicants were disqualified. Only 14.14% of these surviving applicants were hired, and another 10.26% were carried over into calendar year 1992.

Disqualification in the background process occurred for a variety of reasons, principally for being overweight, drug use (primarily marijuana and cocaine), driving record, criminal record, falsification of application, credit problems, or lack of high school diploma or G.E.D.

While U.S. citizenship and lack of felony convictions are legal requirements for sworn personnel status, the screening criteria concerning drug usage, driving record, and credit record do not seem to be legal requirements, although they make practical sense. Scrutiny of these screening criteria did not reveal any insensitive or unreasonable standards or application of standards.

The credit record review seems to focus on the reasons for a poor credit record, if it exists. What the recruiting staff seems to look for is how the applicant has handled responsibility entrusted to him or her in the past. The applicant's credit history is a proxy for that search for responsibility. In this regard, major unresolved credit abuse for items deemed frivolous, such as expensive restaurant meals or expensive clothing, often will disqualify an applicant if he or she does not commit to a program of paying off those debts. Conversely, we were told that major credit abuse for more understandable reasons such as grocery store food or medical bills is not disqualifying. While we did not see any data concerning the comparative impact of disqualifications for poor credit record by sex, racial



or ethnic group, we were told that there is no sex, race or ethnic group pattern of such disqualifications.

We are concerned, nonetheless, that the recruiting staff should conduct credit screening with the utmost care, recognizing that this information is at most one indicator of how the individual applicant handles responsibility entrusted to him or her, and that *disqualification for credit problems may disproportionately impact low-income and minority applicants.*

Minority officers believe that many qualified minority applicants "are allowed to die" in the background investigation process through excessive delays.

### *Screening for Bias*

Although background investigators ask detailed questions on matters ranging from drug use to job stability to credit history, **they currently ask no questions whatsoever regarding racial or sexual orientation bias of applicants.** The Department does not, for example, ask friends, neighbors or employers whether an applicant is racially bigoted or intolerant of gays and lesbians. Rather, it appears to expect that extremely open-ended questions will elicit such data. In the memory of a knowledgeable manager, however, only one applicant in recent history has been eliminated on the basis of racial bias identified in the background investigation process. When asked why more pointed questions on bias are not included in the background investigation, the official replied, "I don't have an answer to that." We were recently advised that the new background investigation questionnaire will have one question regarding bias.

The Department also relies on the psychological evaluation to screen out biased applicants. Despite these efforts, according to a high-level officer, "We have racists coming into the Department."

## *Preemployment Psychological Examination*

The Department relies heavily on preemployment psychological examinations to screen out applicants with potential to utilize excessive force. As discussed in later chapters, very few recruits or deputies fail training at any level for the excessive use of force. Department officials, when questioned on these low failure rates, invariably point to preemployment psychological screening as the stage at which individuals with problems in these areas are eliminated.

A review of this screening, however, reveals that in fact **the preemployment psychological examinations do a poor job of identifying and screening out individuals with a tendency to utilize force improperly.** In a review of applicants found qualified by the Department we found that a full 49% should have been disqualified due to excessive force proclivities. We found, further, that **failure of the screening to identify these individuals was a direct result of Departmental pressure on the psychologists to lower the rejection rate.** Finally, we found that **the Department has failed to adopt excellent screening methods recommended by the Police Officers Standards & Training Commission (POST) and other valid screening techniques, which would substantially increase its identification of applicants who should be rejected.**

The preemployment psychological examination is one of the final components of the preemployment screening process. After disqualifications through the interview and the background process, an additional 617 failed the Psychological Evaluation. These statistics reveal a psychological disqualification rate for 1991 of 42%.

The Psychological Evaluation consists of psychological tests, a review of the background investigation and a clinical interview. The psychological tests are the Minnesota Multiphasic Personality Inventory (MMPI), an objective test designed to identify psychopathology; the 16PF, an objective test designed to measure personality characteristics associated with normal behavior which may suggest problems in personality

functioning; and a projective Sentence Completion Test designed to capture personality and attitude feelings of applicants. Applicants also complete a Social History Questionnaire which provides factual demographic, familial, school, drug usage and other social relationship information.

Background investigation material includes a summary of demographic information and any concerns flagged by the investigation such as suspicion of drug usage, questionable intelligence or unstable family history. In addition, applicants submit an autobiographical statement and an essay on why they want to become a deputy sheriff. Past job references are also examined.

The clinical interview is conducted according to a Structured Clinical Interview and rating summary form. In an effort to identify tendencies toward excessive force, the psychologist evaluates a number of dimensions of impulse control and stress management. The psychologist evaluates any history of patterns of aggressive behavior and coping and adapting behavior with an emphasis on detecting how the applicant responds to provocation. Stress tolerance is also evaluated.

Our staff psychologist reviewed 10% of the test results of all applicants determined to be qualified by the Departmental screening process in 1991. **Of 53 applicants reviewed, he concluded that 26 or 49% should not have been found qualified due to tendencies to utilize excessive force.**

These findings indicated a serious need to **increase** the rate of psychological disqualifications to assure that all individuals with excessive force tendencies are disqualified. We were, therefore, very troubled to learn from a knowledgeable individual that the Department places pressure on psychologists conducting the screening to **lower** the rejection rate. In recent years the personnel needs of the LASD have dictated ambitious hiring goals, and identifying candidates as qualified has been deemed a higher priority than identifying all applicants with excessive force tendencies.

The rejection rate of applicants is lowered not only by Departmental pressure to find

applicants qualified but also by methodological flaws in the screening process.

Most of the flaws we identified result from the Department's failure to follow all of the excellent psychological screening procedure recommended by POST, the state agency which establishes standards for law enforcement training. In 1984, following a large scale study, POST issued its *Psychological Screening Manual*. This manual is replete with informative and highly useful recommendations for law enforcement agencies which wish to utilize state-of-the-art psychological evaluations. While the Department did adopt selected recommendations of the manual, it has not adopted major portions and is not following all of the portions which it did adopt.

The primary weakness we identified in the Department's screening process is its failure to utilize the POST-recommended Psychological Attribute factors to evaluate candidates. POST recommends the use of these factors because they were found to be predictive of better performance by police officers. The attributes are achievement, flexibility, sensitivity, maturity, intelligence, somatic concerns, mood, social adjustment, anxiety, emotional control, dominance, moral-ethical behavior, impression formation and attitudes.

We evaluated each applicant in the sample for each of these 14 POST-recommended attributes. Among the candidates who passed the psychological screening process that we would have rejected, we found more than twice as many force-related psychological attributes as among those we would have accepted. We must conclude that among the applicants passed by the County psychologists, half of these should have been rejected because of propensity toward force.

The POST Psychological Attributes were a far more powerful tool to identify individuals with excessive force tendencies than were the screening tools utilized by the Department. Psychological tests do not distinguish between qualified and unqualified applicants, nor does the state of the art permit them to do so.

Nor is the clinical interview, as conducted by the Department, able to identify many applicants as unqualified. Defects in the conduct of the clinical interviews substantially

reduce the usefulness of this tool.

First, the Department clinical interview process does not follow up on psychological test results that are of questionable validity or indicate psychopathology, as recommended in the POST manual. While the Department indicates that it adopted this POST recommendation, our review found **no instance** in which such follow-up had taken place.

We also believe that the clinical interview is not long enough. The interview typically lasts for only 45 minutes. This is not enough time to make the applicant comfortable and disarm the defensive behavioral posture which characterizes most applicants. The clinical interview does not develop a sufficient historical base of information to permit the detailed assessment of personality traits and characteristics necessary to predict how an applicant may behave in the future.

The Psychological Evaluation can be a powerful tool to predict deputy sheriff job performance if the Department has the will to utilize it to its full potential. The changes recommended would add significant validity to the Psychological Evaluation process.

### *Recommendations Regarding Hiring:*

- 1. The Department's physical training programs should be part of a concerted marketing program that seeks to increase the number and percentage of female and minority, and especially Hispanic and Asian, applicants.**
- 2. Credit screening must be conducted with utmost sensitivity in order to assure that it does not unfairly eliminate minority and low-income applicants.**
- 3. The Department must conduct much more proactive preemployment screening as to potential bias on the basis of race, ethnicity, gender and sexual orientation and must disqualify applicants who are determined to be so biased.**

4. The Department should conduct regular audits of background investigations to prevent needless delays. Applicants who inquire should be advised of the status of their application.

### *Recommendations Regarding Preemployment Psychological Exam:*

1. Candidates must present themselves in a psychologically open manner and be responsive to interview questions at a level of openness judged to be adequate by the evaluating psychologist. If candidates are defensive, they should be disqualified.

2. If psychological test results indicate questionable validity or are interpreted as defensive, the test should be repeated and should be the subject of evaluation in the clinical interview. If candidates remain defensive, they should be disqualified.

3. Psychological test results in the clinical range indicating psychopathology should be strictly evaluated in the clinical interview. Unless documentable justification can be found, candidates should be disqualified.

4. All candidates must have a clinical interview before hire as a component of the Psychological Evaluation.

5. The length of the clinical interview should be increased to 1.5 to 2 hours to allow for detailed development of all Psychological Evaluation data including known predictors of force, psychological factors, historical data and behavioral attributes associated with the prediction of force.

6. A new structured clinical interview should be developed to specifically assess psychological factors, historical data, and behavioral attributes associated with the prediction of force.

7. The clinical interview should develop adequate psychological and behavioral information to support a higher disqualification rate based on the presence of information suggesting tendencies toward the use of excessive force.

**8. Stricter criteria for disqualification based on the presence of psychological factors, historical data and behavioral attributes predictive of force should be adopted independent of manpower goals of the organization. The Psychological Evaluation criteria adopted for the prediction of tendencies toward force should be based on the state of the art of psychological prediction of force rather than on LASD personnel needs.**

**9. The structured clinical interview should be modified to incorporate assessment of the POST recommended 14 psychological attributes.**

**10. The background investigation should develop the investigation tools to gather information on the psychological factors, historical data and behavioral attributes associated with excessive force. For example, verifications and ratings of prior employment should be modified specifically to ask for this kind of information.**

**11. The Department should conduct psychometric validation studies of the predictive dimension of job performance, especially as related to excessive force.**







## 15. Promotion Practices

Departmental promotion is largely a function of the County Civil Service system. With its somewhat rigid rules and eligibility requirements, this system both constrains the Department's ability to implement affirmative action goals and also strives to safeguard the decision-making process from biased selection procedures. The operation of the Civil Service system, however, affects different positions differently. Subjective factors are more heavily relied upon for positions of greater authority within the Department.

### *Non Civil-Service Positions*

The top 11 positions in the Department are exempt from Civil Service requirements altogether. Unburdened by the constraints imposed under a Civil Service regime, the racial and ethnic mix of personnel occupying these high-ranking positions nearly mirrors that of the Department at large. Of the 8 division chiefs, 6 are Caucasian, 1 is African-American and 1 Hispanic. Of the 2 assistant sheriffs, 1 is African-American and 1 Caucasian.

The Undersheriff is Caucasian. The sample size, however, is simply too small to draw any meaningful conclusions regarding race or ethnicity. Possible gender bias, on the other hand, is highlighted by the fact that all of these high-ranking non-Civil Service positions are held by males, notwithstanding that women make up nearly 12% of the Department's personnel with 10 or more years of service.

### *Civil Service Positions*

The civil service examination process differs for each position. Candidates for sergeant and lieutenant positions are evaluated based partly on their written examination scores, and partly on an interview and appraisal rating. The examinations are developed by trained industrial psychologists, and their content appears to be a valid measure of job-related attributes. Neither written examinations nor oral interviews are used for determining promotional opportunities for captain or commander positions. Indeed, captains advocated

the elimination of the interview "in recognition that the Sheriff needs to select whom he wants to run the Department." Appointments to these positions are determined exclusively by a promotability appraisal, a rating which is widely perceived to be highly subjective.

Appointments to sergeant positions are based strictly on rank order of candidates under the Civil Service Rules. Therefore, the Department may not even consider affirmative action goals in allocating these promotions. (In any case, the Department may not give a preference to any candidate based on racial, ethnic or gender considerations without a showing of a "manifest imbalance" of the particular protected group in the work force).

In comparison, the Department has more flexibility regarding appointments to lieutenant, captain and commander positions. Rather than utilizing an ordinal ranking system, candidates for these positions are banded in groups based upon a range of scores. Therefore, rather than being required to select any one particular individual for a given position, under the Civil Service Rules, the Department has a range of qualified individuals from which to choose. This gives the Department the ability to place a particular qualified individual in a position for which his background is uniquely suited. With flexibility, however, comes responsibility. The Department appears to have been using this responsibility to further rather than to impede its affirmative action goals.

**The Department's heavy reliance on subjective selection mechanisms such as interviews and appraisals needs greater scrutiny.** While the Department is sensitive to the potential for abuse and reviews the promotional selection procedure to screen out such bias, this sort of screening presupposes that no other forms of bias enter into the promotion process before the applicant's promotability is assessed. For example, content-validity studies and raters' appraisal and sensitivity training will not improve conditions under which women and minority candidates feel predestined to fail and thus remove themselves from promotion consideration. Moreover, given that one's promota-

bility appraisal is partly based on a candidate's prior job assignments, even an unbiased rating system will not prevent bias in the assignment process.

There is reason to believe that such problems exist in the Department. **To many women and minorities the idea of a Civil Service meritocracy does not reflect a departmental reality that promotions actually are dependent on political favoritism or "cronyism."** There does not appear to be bias in the testing procedure itself, but as one ascends the Department hierarchy, the concentration of white males in these positions increases. The figures are striking. While Caucasian males make up 86% of the deputies, they are 91% of the sergeants and 94% of the lieutenants. Caucasians (both male and female), by contrast, form only 75% of the Department's senior personnel with 10 or more years of service. Thus, there is reason to suspect that forces external to the Civil Service system are operating to frustrate promotional opportunities or at least perceived promotional opportunities for women and minorities.

The figures are somewhat more balanced for captain and commander positions, but women appear to be underrepresented in these categories as well. Although nearly 12% of the senior workforce, women occupy only 9% of captain positions and 8% of commander positions. Further, the racial and ethnic balance of these positions appears to be skewed as well. While the senior workforce is approximately 75% Caucasian, 9% African-American, and 14% Hispanic, Caucasians hold 85% of the sergeant and lieutenant positions, 86% of the captain positions and 88% of the commander positions. This is compared to respective percentages of 6% sergeant, 6% lieutenant, 5% captain and 8% commander for African-Americans, and 9% sergeant, 8% lieutenant, 7% captain and 4% commander for Hispanics.

**The single most problematic promotional area from an equal employment opportunity standpoint appears to be the transition from deputy to sergeant. One would expect members of protected groups to be promoted in proportion to their respective representation in the pool of deputies. However, while only 70% of deputies are Caucasian, 85% of sergeants are Caucasian. African-Americans drop from being 10% of deputies to**

only 6% of sergeants; Hispanics drop from being 18% of deputies to only 9% of sergeants. This trend adversely affects women as well. While 14% of the deputies are women, women are only 9% of sergeant personnel. This disparity suggests that **some force, either internal or external to the selection process, is working to frustrate promotional opportunities for women and minorities.**

The Department cannot simply rely on its current selection procedures to ensure that all equal employment opportunity objectives are being fulfilled. Even if the procedures themselves are "fair," which is unclear, the underrepresentation of women and minorities in lead positions is troubling. Given these figures, the Department needs to reevaluate its system for allocating promotions.

### *Recommendations:*

**1. The Department must engage an outside expert to assure that its appraisal rating process is based on objective performance criteria and the applicant's skills and job performance history.**

**2. In order to eliminate obstacles that may discourage minorities and women from applying for promotions, the Department must engage an outside expert to identify such obstacles and to design employee career development services necessary to assure that women and minorities apply for appropriate promotions.**





## 16. Academy Training

Recruit training is conducted at the Sheriff's Academy in Whittier and at another site in northern Los Angeles County. Training is also conducted at Laser Village at Biscailuz Center. Classes are 21 weeks, 3 weeks more than state-mandated requirements.

We observed a wide range of classes, including Legal and Moral Aspects of Deadly Force, Ethics and Professionalism, Cultural Awareness, Officer Survival: Reducing Prejudice and Eliminating Discrimination, Defensive Tactics, Tactical Communications, Officer Intervention, Courtroom Demeanor, Proposition 115, Arson and Explosives, Crisis Intervention, Search and Seizure, Instructors' Update, Laws of Evidence and Firearm Training. In general, the quality of instructors and instruction is excellent. In certain courses, however, the materials are not completely up to date, and in others video presentations could be used to enliven the presentation.

More fundamentally, **Academy training on force issues still places far too much emphasis on "worst case scenarios" which threaten officer safety** despite recent innovations in both the content and instructional methods.

**Furthermore, Academy training is not utilized to screen out recruits who have a tendency to use excessive force. As a high-level Academy officer stated, "Our role is not that of deselector. We want them to finish!"**

**Nor does the Academy, despite encouraging beginnings, provide sophisticated, effective training in Cultural Awareness. More promising are the Department's first training efforts in Reducing Bias and Eliminating Prejudice.**

### *Recruit Force Training*

#### **Defensive Tactics**

The initial systematic treatment of use of force issues is presented to recruits in "Introduction to Defensive Tactics," a class in which they are required to learn techniques to be used in "arrest, control, search, handcuffing and transportation of prisoners."



In this course, instructors emphasize that reasonable force is "Only that force necessary to effect the arrest, prevent escape, or to overcome the resistance of a person," (Penal Code Sec. 835). Recruits are instructed that "reasonable force increases by degrees as necessary. But as soon as the suspect submits, the force is reduced. Increasing and decreasing force as necessary is called escalation and de-escalation of force."

In order to organize recruits' understanding of reasonable force, a "Force Barometer" is utilized. The image of a barometer is used to display the contingent, reactive and/or defensive character of reasonable force. Selection of force options at any level is shown as contingent on, or "dictated by," actions on the part of "suspects."

The goal is to train recruits to make competent, professional and defensible force decisions. They are admonished that they will be sanctioned for use of unreasonable or unnecessary force. Recruits are also trained to apply the various force options competently and professionally. They are instructed that mastery of the Defensive Tactics (DT) will enable them both to significantly reduce the frequency they will have to resort to force and to use levels of force which are minimally necessary (and therefore legally defensible). Recruits are admonished to "remember your training," and to "do things the way we train you," so that they will not get into trouble. Frequent reference is made to the "Rodney King incident" as an almost textbook example of use of excessive force which would be severely punished by the Sheriff's Department.

Recruits receive training in basic defensive tactics which range, for example, from issuing verbal commands, through the application of various control holds, to the competent use of impact weapons, especially the baton. Many DT classes are held in the gym and consist of demonstrations of compliance holds, search techniques, takedowns, handcuffing techniques, etc. Basic instruction in martial arts and boxing is also provided.

The written material for this course is outdated and militaristic. It is inconsistent with the current force policies being presented.

Although Defensive Tactics instructors frequently admonish recruits to use restraint in their use of force, a handout currently used (H-56) begins with the following statement:

*"These are precarious times for law enforcement. The deputy has become the target of many; the criminal element, youthful gang members, organized revolutionaries, and the mentally disturbed. A deputy's duty on the streets of any metropolitan area is apt to turn into a (simple) matter of survival."* Such dire and potentially inflammatory rhetoric is out of keeping with both the spirit and the letter of the training we witnessed, as well as the Core Values espoused by the Department.

### **Ethics and Professionalism**

Prior to the beginning of weapons training, a four-hour course on "Professionalism and Ethics" is presented. In this course, during an extended discussion of police ethics, the instructor gives the class a hypothetical case which closely resembles the Rodney King incident. In the ensuing discussion of ethics, public trust and accountability, the instructor argues that it would be the clear obligation of all deputies on the scene to restrain others from using excessive force. This course of action was, he argues, in the interest of all deputies involved, even the deputies involved in the assault. Through such intervention by professional and ethical law enforcement personnel, such deputies might ameliorate severe discipline by the Department, a civil action by the person being assaulted, and/or criminal prosecution.

### **Tactical Communications**

Also preceding weapons training is a six-hour class devoted to "Tactical Communications." This innovative course is intended to provide the recruits with an appreciation for the crucial role that communication, broadly defined, plays in their professional and personal lives and to identify specific skills "which can be developed to enhance your effectiveness as police officers during interactions with citizens, colleagues

and supervisors, and even, for example, when involved in personal relationships with friends and family members." The explicit goal is to make them more effective communicators as well as to sensitize them to factors which inhibit effective communication and may underlie conflict.

In one of several discussions of use of force issues, a presenter suggests that poor communication skills on the part of police officers may lead to "unnecessary violence." He borrows from law enforcement expert James Fyfe, who has argued that such violence occurs "...when well-meaning officers lack the skills to resolve problems without resorting to violence. In the worst cases, they put themselves in trouble and then must shoot their way out of it." One of the explicit goals of the course is to increase the skills of recruits so that, as deputies, they will be better positioned to avoid such violence.

Instructors emphasize that development of good "Tac Com" skills will increase an officer's ability to control situations via verbal techniques without resorting to more forceful options. Even if verbal techniques fail to prevent violence, their use may prove effective in documenting the fact that the force used was, in fact, reasonable.

### **Legal and Moral Aspects of Deadly Force**

After weapons are issued to recruits but before weapons training commences, a four-hour session on this topic is presented. Despite the title, the course addresses a wide variety of issues surrounding the general use of force by police.

The instructor states that effective police work unavoidably relies upon public trust and support which, in turn, hinges upon how police and their actions "look" to members of the public. He argues that the use of excessive force by any officer undermines public trust in all officers and admonishes recruits to contribute to the solution rather than to exacerbate the problem.

The Force Barometer is again discussed, during an explication of the Department's "Policy Regarding the Use of Force and Firearms." Recruits are implored to become well

acquainted with the force policy and to prepare carefully for the possibility that they will be required to use force. They are reminded that, while they are prohibited by policy and law from using excessive force, they assume a "positive duty to use force when necessary" when they become sworn law enforcement officers. The class seeks to prepare them for this eventuality by reviewing the policy and procedures and providing a description of the decision making which underlies reasonable use of deadly force as contrasted with police brutality.

The instructor underscores the importance of Tactical Communication skills in reducing both the frequency of force use by police and the level of force to which they resort. In his closing remarks, the instructor notes, "We're either crooks or cops, we can't be both."

After the completion of weapons training, a final two-hour class is presented to refresh the recruits' understanding of the legal and ethical context of force and weapons use.

### **Officer Intervention**

In this innovative two-hour course, the legal and ethical context of police misconduct is reviewed to develop the proposition that police officers have a legal and ethical obligation to intervene when they witness misconduct on the part of other officers. The instructor discusses the factors which most frequently block officer intervention. Among those discussed are the perceived consequences of "snitching," peer group pressure and the police "code of silence."

The Officer Intervention presentation works to remove these obstacles to intervention by attacking the moral and legal stature of any "peer group" which sanctions excessive force and requires its members to engage, even passively, in a criminal conspiracy. As in the lecture on Deadly Force, recruits are requested to join the "positive peer group of honest and ethical" members of the Department rather than the few "dinosaurs who haven't gotten the message yet," who will be disciplined, discharged and/or prosecuted for brutal or

corrupt misconduct.

Once more, the Rodney King case is invoked, this time along with cases of deputies who have been recently disciplined and discharged. If the bystander officers had intervened, there would have been no damning and embarrassing videotape, no public controversy and condemnation, no criminal trials of police officers and no civil liability. If someone "had done them the favor of stepping in, of getting in their way," they would not now face possible loss of career, loss of house and family, criminal prosecution, civil litigation, embarrassment and public humiliation. By extension, he argues that police officers across the nation were harmed by that failure to intervene.

### **Firearms Training**

Twelve full days are devoted to firearms training, nine at the Sheriff's Range followed by three at a "Laser Village" facility at Biscailuz Center. The most innovative instruction in use of deadly force and deadly force decision making occurs at the Laser Village, where recruits receive three types of training.

The first part consists of several hours of lectures and slide presentations principally on the subject of how to avoid suspect inflicted harm to police officers.

The second phase of training involves firing of laser-equipped Beretta pistols in a room with a large video screen. The video is interactive so that when confronted with a potentially dangerous situation the student must make the decision whether or not to "shoot." If the correct decision is to shoot and the student either fails to shoot or the assailant fires first, the student is pronounced to be "dead." If the correct decision is to withhold fire and the student fires, the result is an unwarranted, perhaps fatal, shooting of a citizen. The goal of the training is to teach recruits to shoot only when it is proper to do so and, if proper, to fire first and effectively.

The third phase of training is carried out in "Laser Village" proper, a setting consisting of huts and outdoor sites where potential danger may be lurking. Pairs of offi-

cers or individual officers must enter the situation and react to actions by other deputies who take the part of citizens, dangerous or harmless. After the student goes through the exercise there is a critique by the instructor deputy.

We noted that there was little criticism of the trainees as to the decisions made.

**To our knowledge, recruits do not fail the Academy because of their performance at Laser Village.** We were advised that the absence of criticism was due to a belief on the part of training staff there is more than one correct approach and that trainees' confidence needed to be bolstered.

However, subsequent monitoring of a group of patrol deputies being put through a refresher class revealed the same failure to critique decisions made, even if they were clearly incorrect. Deputies who made "mistakes" were not even required to repeat that particular phase.

### **Role-Playing Examinations**

Role playing is emphasized at the end of the curriculum. Recruits act out apprehension of burglary suspects, response to robberies and domestic violence, detaining suspects, making peaceful arrests, making arrests using force and conducting searches of persons. Failure to pass any of these role playing situations results in re-examination by the chief instructor. A second failure results in dismissal.

**One high-ranking officer observed that there is an automatic escalation of force bias built into many of the role-playing scenarios.** "The message communicated to recruits is: 'You will use force.'" This officer suggested that such scenarios should be balanced by ones which test the recruits' skills in managing potentially difficult situations in professional and competent ways in order to minimize or avoid use of force.

## *Dismissals and Discipline of Recruits*

In order to determine the effectiveness of Academy training in screening out recruits with potential force and bias problems, we examined records of resignations and dismissals from recruit training for 1990, 1991 and early 1992. Physical disabilities, inability to maintain the physical pace demanded and personal disinclination to continue are the principal reasons for resignations. Dismissals also result from serious infraction of rules: use or possession of alcohol, sexual harassment, ethnic remarks, insubordination, and untruthfulness. Another cause is the inability to pass role-playing examinations.

Very few recruits leave for rule infraction or failure to pass role-playing. For Classes #266 through #277, graduated December 1990 through January 1992, only 17 out of 1006 recruits resigned or were discharged on these grounds. Seven failed role-playing, and 10 violated rules, ranging from lying to criminal activity. Only **one**, a fight with another recruit, was force-related.

In 1990, the LASD added four new role-playing tests not mandated by the Police Officers' Standards and Training Commission (POST) in the areas of use of force, cultural awareness/language, tactical communications and officer survival. Failure in any results in automatic failure of the entire exam. For Classes #266 through #277, however, there were **no failures for improper force**, and only one for cultural insensitivity. In Class #278, one recruit failed the force test for failure to use **sufficient force**.

These figures reveal that the LASD does not use the Academy to identify and screen out recruits who may have an inclination to excessive use of force. Management believes that this problem does not surface in Academy training. They rely instead on prescreening to eliminate applicants with such proclivities. We discuss deficiencies in prescreening procedures for force in Chapter 14. The virtual absence of separations from the Academy for force problems indicates insufficient attention to the issue. **Indeed, the LASD is reluctant to flunk anyone out**; rather, their approach is to do everything to "help the recruit pass."

## *Cultural Awareness*

Commencing with Class #279, graduated May 1, 1992, the Department required 22 hours of Cultural Awareness training. Cultural Awareness teaches the backgrounds and customs of various ethnic groups and their differing ways of reacting to similar events. Currently, the six courses teach about Hispanics, African/Americans, Vietnamese, Pacific Islanders, Native Americans, East Indians, Pakistani and Filipinos.

We thought the instructors of these courses, who are primarily sworn Department personnel, were sincere, open and generally effective in drawing out the recruits' prejudices and opinions. Course content was not "censored" by the Department, and statements made by certain instructors were quite frank.

The quality and effectiveness of the courses, however, were uneven. The reported input by the Department's Cultural Awareness Committee was not apparent. Minorities report having been embarrassed and offended by aspects of the course, both at the Academy and elsewhere. In one instance, a minority instructor told an ethnic joke. In response to one class, at which a "rap" videotape was presented, a sergeant stated, "A rap tape does not a culture make." An objection was also raised to the showing of an Eddie Murphy "Buckwheat" film. In Academy classes we observed, there were factual inaccuracies on sensitive topics, such as the historical background of racial groups, and whether the Department accords minority applicants hiring or promotional preferences. In addition, one instructor advised recruits to keep racially biased remarks "within the patrol car" rather than out of the work place.

In order to improve the quality and effectiveness of this course, the Department must make substantially greater use of both internal and community resources. Minority law enforcement officers' associations and other minority groups should review the curriculum in advance, monitor the courses and propose improvements. Several of the instructors need to develop their fund of background facts, methods of presentation and instructional



materials. Furthermore, substantially more practical advice regarding how to handle specific situations in particular communities would make the course far more valuable.

### *Reducing Prejudice*

Also commencing with Class #279 is a new ten-hour course on reducing prejudice and eliminating discrimination. The course is based on materials furnished by the Anti-Defamation League, the National Conference of Christians and Jews, the Boston Police Department, the Gay and Lesbian Alliance against Defamation and the Recruit Training Bureau staff instructors. It involves some role-reversal and open discussion of biases.

In the main, it was a successful effort. As noted elsewhere, there were serious problems with the gay and lesbian segment. We commend LASD for using outside groups to develop the course.

### *"Code of Silence"*

We were very interested in what the Academy had to say about the "code of silence." We heard several instructors inform the recruits that they should report any improper conduct by fellow officers, including excessive force. One tactical officer gave his class the following example: Suppose a recruit saw him striking an arrestee already under control. What should the recruit do? The correct and only answer, stated the tactical officer, is to report the incident to higher authority.

The Department must vigorously enforce this obligation to report excessive use of force.

*Recommendations:*

1. The Department should utilize Academy training to identify and screen out recruits with potential excessive force and bias problems by substantially heightening the scrutiny with which it reviews role-playing examinations.
2. Similarly, the Department should utilize Laser Village training to identify and screen out recruits with potential excessive force problems.
3. Officer survival "worst case scenarios" must be deemphasized in Academy training.
4. In order to increase sophistication, effectiveness and practical usefulness of the Cultural Awareness course, the Department should utilize minority law enforcement associations and other internal and community resources to design, implement and monitor the course.
5. All course materials must be updated to be consistent with current Departmental force policy.



## 17. Custody

The Sheriff's duties include management of the County jail system. Therefore, his resources are divided between patrol functions and jail functions. About 3000 personnel work in the custody facilities. After completing the Academy, newly sworn deputies invariably receive an initial assignment in one of the County's 11 jail facilities or in court services. The custody assignment is preceded by 80 hours of Jail Operations School.

Deputies assigned to work in a jail remain in that assignment for anywhere from 18 months to as long as five years before they receive their first assignment to a stationhouse for patrol duty. The length of the assignment to a custody facility varies depending on a number of factors, including (1) the sex of the deputy (women get out sooner than men for purposes of gender balance at the stationhouses); (2) the deputy's choice of patrol station (some stations have longer waiting lists than others, especially suburban stations as contrasted to inner city stations); (3) the availability of Field Training Officers at the stations; (4) budgetary concerns; (5) the size of the jail population; (6) the ratio of sworn to civilian employees in custody facilities; and (7) the desire of a deputy to delay going to a patrol assignment.

### *Appropriateness as First Assignment*

Of all the topics we focused upon in our investigation, none provoked quite as much discussion and disagreement as the thesis that the custody assignment is an inappropriate placement for a young deputy so early in his or her career. There are those inside and outside the LASD who readily assent to the proposition: For them, it is self-evident that spending two to five years in the exclusive company of hardened criminals in a grim correctional facility will turn any young, inexperienced man or woman into a cynical authoritarian ready to harass, intimidate, bully, and physically punish any person who does not immediately follow orders and conform. Those who view the custody assignment as detrimental also point to instances where it is used to inculcate the "code of silence" and

force young deputies to conform to it.

To those who abhor the idea that young deputies are sent to be turnkeys in jail right out of the Academy, it also seems patently clear that after several years in a custody facility, the deputies will adopt negative, stereotyped views towards African-Americans and Hispanics because of their overrepresentation in the jail population and that these views will carry over and influence the deputies throughout their law enforcement careers. The African-American they pull over later in their career for a traffic violation who does not immediately comply with an order will be dealt with in the same summary way and with the same contempt as a surly prisoner. Any young Hispanic in a T shirt and oversized slacks out on a Saturday night in Pico Rivera will be assumed to be as violent as a hardened "gangbanger" behind bars and will be "curbed" or "proned-out" as a matter of course.

To others and to the majority of persons we spoke to from within the LASD, including young deputies, the advantages of the custody assignment were equally self-evident: The average age of newly sworn deputies gets increasingly lower. Many of these newly sworn deputies are barely 21 and have little by way of life experience. Many still live at home with their parents. They have not been in the military; they have never had a substantial full-time job. They have never met a criminal and they have never been conped by a prisoner. In the view of many within the LASD, if one were to put them out on the mean streets of Black or Latino LA, it would be a disaster; they would frighten easily, shoot first and ask questions later.

Those who favor the immediate assignment to custody also argue that the young deputies need the controlled custody environment in order to learn to deal with criminals, to assert their authority, to restrain an individual without using a gun, to learn about the underside of life, to find out about drugs, gangs and con games, and to learn street language. By the time they come out of the custody assignment, they are ready for the streets and have the confidence that they can deal with anyone that they come across.

Top management within the LASD firmly opposes a recommendation to abolish the custody assignment or to send a young deputy first to patrol. The logistical nightmare conjured up by either proposal caused LASD managers to shudder. The idea that career correctional officers be employed as jailers instead of young deputies was dismissed on the grounds that (1) they are not as professional and qualified as deputies; (2) they are not any cheaper in the long run than using deputies; (3) because there would be a lessening in quality, the Department could not maintain the present advantageous ratio of one deputy to seven or more prisoners; and (4) it would not be possible to send untrained correctional officers out to the streets in the event of a major catastrophe.

The idea that deputies be required to serve only a short, fixed term in the custody assignment was deemed impractical because of current budget constraints and the size of the population in Los Angeles County jails. The suggestion of an experimental program where some deputies out of the Academy go to custody and others to patrol raised logistical difficulties and problems of manpower imbalances. The suggestion that deputies spend their probationary period in patrol before being assigned to custody similarly raised logistical and manpower problems.

Middle management at the level of captain generally favored retaining the custody assignment but were more open to experimentation and were freer to criticize the assignment. One captain said that no decent training took place in custody and that there was no incentive whatsoever to weed out problem deputies in custody because supervisors in custody know that they will eventually rotate out into patrol and become someone else's headache.

Another captain suggested that it is senseless to have the young deputies on probation during the custody assignment and not on probation during the initial period of the patrol assignment because it is far easier to fire a deputy while he or she is on probation. The probationary period should therefore overlap with a patrol assignment because it is more relevant to what the deputy will be doing for the balance of his or her professional life in

the LASD.

Some captains believe that the custody assignment, especially when it lasts for several years, is a disincentive for recruits to join the LASD instead of the LAPD or other police departments. Others thought that it might contribute to a lower quality of recruit.

Most of the deputies we talked to saw advantages to the custody assignment. Many believed, however, that it should be limited in time. Importantly, no one in the LASD, from top to bottom, made any argument that there is any educational or other advantage to a young deputy staying in the custody assignment for more than a couple of years at most; not a few argued that anything more than two years was positively harmful. We did not come across anyone who was willing to support a longer custody assignment than two years on any grounds other than the budgetary infeasibility of a shorter fixed period.

The asserted advantages and disadvantages of the custody assignment are not easy to balance. There is truth on both sides. It is clear, however, that inertia in the LASD weighs in heavily on the side of keeping things as they are. We are convinced that the logistical, budgetary and practical difficulties of serious change in this area give the management a distorted picture of the problem: the anticipated pain of change is so intense that management can clearly perceive only the possible advantages of the custody assignment and cannot focus sharply upon the possible disadvantages.

We proceed cautiously in this area ourselves. We do not believe that there is adequate empirical evidence to support a flat recommendation that the custody assignment be abolished or switched around to follow a patrol assignment. We are not so impractical or impolitic to dismiss out of hand the substantial logistical and budgetary arguments that are raised.

One aspect of the practice of sending new deputies to custody before patrol is that their probationary periods end prior to patrol. We believe this anomaly should be changed to permit an actual probationary period on patrol. The recent case of *Burden v. Snowden*, 92 Daily Journal D.A.R. 5954, made it plain that the Public Safety Officers

Procedural Bill of Rights is not applicable to recruits. Accordingly, we believe that the probationary period should be extended through the first six months of patrol. It will allow greater opportunity for eliminating serious problem officers early on and provide an enhanced opportunity for follow-up on background checks, if necessary.

### *Quality of Training and Oversight*

We now turn to the quality of training in the custody assignment and to whether the custody assignment is used in a meaningful way to weed out deputies who show a propensity to use force excessively. **We find that there are serious deficiencies in the training and that discharges for improper force are all too rare.** We also find that training does not adequately address force issues in the custody context. Nor does it deal adequately with deputies' feelings of fear and unfamiliarity in the custody setting.

After graduation from the Academy, deputies currently receive 80 hours of instruction in corrections, covering such topics as defensive tactics, force survival and tactical communications. Eight hours of cultural awareness instruction were added for the most recent class to attend Jail Operations School in May 1992.

Jail operations training is generally seen as relevant to custody assignment but ultimately of somewhat limited utility, since learning to work custody is "a hands-on situation" with significant variations between custody units.

On first coming to a custody unit, recruits receive an orientation to that particular unit, including its physical layout and standard procedures. Often these orientations are brief and hurried with an emphasis on learning the basic physical plant and on getting one's shift assignment.

In practice, recruits are almost immediately given job assignments in the facility, typically being assigned to a particular module under the supervision of a "training officer." Initial training here typically involves being shown what to do, then being ordered to do that yourself. As one recruit described his first day at the Inmate



Reception Center: "You see it once or twice, then it's your turn to do it." Recruits are typically rotated through a number of different modules with their training officer.

The training officer is usually a deputy who has just completed training, i.e., someone who has been out of the Academy a year or so, but who is familiar with the procedures for that particular jail facility. The training officer receives no special training for the position and receives no bonus pay. Neither do the sergeants and lieutenants who oversee the training process.

In general, training officers in custody provide instruction in how to carry out day-to-day jail functions, such as how to work the gates to get inmates into and out of their individual cells. Many recruits told us they felt unprepared for these job assignments, particularly those that were more complex and demanding.

The absence of adequate training for custody assignments may contribute to young deputies' becoming harsh, uncivil and demeaning in treatment of inmates. One female deputy related how she eventually realized that she could treat inmates civilly:

*"I learned that you didn't need to go in [the dormitory] and yell, 'Okay, you fucking assholes, get on your bunks! It's count time, gentlemen!' You know, screaming at the top of your lungs and have a coronary over nothing. You know, so I learned how to — you know, you can be calm and get the same exact results. You can even be nice — you know if they ask you what time it is, I would tell them what time it was. But you know, but every deputy is [saying], 'Nighttime fuckhead, go to sleep.' You know, and you go like, 'Who cares if they know what time it is?'"*

Minimal or bad supervision in some custody situations may allow recruits to learn or condone the gratuitous use of force against inmates. For example, a deputy who formerly worked at Wayside South Facility commented:

*"[North County Correctional Facility] is considered 'the love shack' and the [Pitchess Honor Rancho] is considered 'the love shack' because they don't get to beat inmates and it's not — you know, everything is closed and very controlled and there's lot of seniors [senior*

*deputies] walking around and lieutenants and sergeants [are] constantly around, watching the deputies. . . . [Wayside] South is just notorious for beating inmates."*

That the jails can become breeding grounds for violence by deputies cannot seriously be disputed. A couple of examples will suffice. In November 1989, a Hispanic male who was to be transferred to the INS for deportation was isolated in a room near the Release Area by a deputy who began to shout obscenities and racial epithets at the inmate and to strike the inmate in the face. Another deputy then joined the first deputy in beating and kicking the inmate. Soon, four or five additional deputies joined in beating, kicking and punching the inmate, slamming his face into the concrete floor. The first deputy stripped off the inmate's shirt and used it to wipe the blood from the inmate's profusely bleeding face. He then rolled the bloody shirt and roped it around the inmate's face, tightening it over his broken nose. When the beating was over, the inmate was taken back to the Release Area. The inmate noted that the deputies had obscured their name tags so they could not be read. A few hours later, the deputies presented the inmate to the INS agents and asked INS to take the inmate despite INS policy not to take custody of an injured inmate. Fearing for the inmate's safety if he were to remain in the custody of the LASD, one of the INS agents decided to violate the policy and take custody of the inmate. A doctor who later treated the inmate diagnosed a severe beating on the face, back, torso and legs, as well as a fractured nose. The deputies responsible for this outrage were discharged.

In another instance, a 27-year-old mentally ill man was in a coma for several weeks and suffered permanent brain damage after being struck with metal flashlights and kicked repeatedly as reported in the Los Angeles Times of June 9, 1992. The County settled with the inmate for a payment of \$1.7 million. The LASD has decided to discharge four deputies for using excessive force.

In a 1987 incident, two deputies tied two pieces of a broom handle in the shape of a cross, mounted it on a plastic milk crate, moved it directly across from a module containing African-American inmates, and set the cross afire. A sergeant who learned of the incident

"chewed out" the deputies but did not report the incident to his watch commander. Later in the year, sheriff's deputies burned a second cross in front of African-American inmates at the Central Jail and yelled racial epithets over the public address system. A sergeant learned of this incident also but did not inform his superiors, claiming that he accepted the deputies' stories that the cross-burning was just "good fun."

Neither incident came to light until an African-American officer alluded to them in the course of an unrelated proceeding. The two deputies involved in the first cross burning ultimately received 15-day suspensions each. The sergeant involved was originally to be demoted, but the LASD later reduced the discipline to a 30-day suspension. The two deputies involved in the latter incident were discharged, although at least one was ultimately reinstated following Civil Service proceedings. The sergeant originally was to be discharged but later settled with the LASD for a 90-day suspension. The longest suspension in normal circumstances is 30 days.

It also is apparent that at times, deputies in custody are taught to adhere to a code of silence. We found evidence that deputies who refuse to submit to peer pressure not to report misconduct of their peers are on occasion "hard-celled," that is, handcuffed, doused with water and placed in isolation cells for hours at a time.

We also found two documented instances of "staged beatings," and we heard second-hand accounts of several more instances. In one of the incidents, a young deputy, in his second week of training in June 1990, was working an observation tower at the rear of barracks where inmates were held in the South Compound of Pitchess Honor Rancho. During the early part of his shift, he saw several deputies bring an inmate to the rear door of a barrack. The next time he looked, the inmate was on the ground and it appeared as if the deputies were beating him. Shortly after the incident was over, the deputy received an anonymous telephone call in which he was told that if he were asked, he was to report that he did not see anything. Five minutes later, the young deputy received a call from someone who identified himself as a supervisor and asked if the deputy had seen anything

occur. The deputy said no. The deputy was later congratulated by his training officer who told him the whole thing had been staged to see if the deputy would "roll on" (tell the truth about) his peers.

Discharge of recruits from Custody is infrequent, and discharges for improper use of force are, at least in the past, also rare. In recent years, however, the trend has begun to go the other way: In 1990 and 1991, out of approximately 3200 deputies in the Custody assignment, 165 resigned (largely for personal reasons) and 23 were discharged. Of the 23 who were discharged, 11 were involved in the improper use or reporting of force. During the two-year period, there were five discharges for sexual harassment but no discharges for racial epithets or bias.

### *Recommendations Regarding Custody as First Assignment:*

**1. The Department should undertake a thorough assessment of the feasibility of placing deputies in patrol during their probationary period prior to assigning them to Custody. It should do so if at all feasible, and the Board of Supervisors should allot sufficient additional budgetary amounts to accomplish the result. In any event, Custody as an initial assignment should be limited in all cases to a fixed period of no longer than eighteen months to two years. The Board of Supervisors should make whatever budgetary additions that are necessary to accomplish this result which should be phased in as soon as practicable.**

**2. Deputies should be rotated between custody facilities during the course of the custody rotation. Each deputy should work in maximum, medium and minimum security facilities. If feasible, deputies should be rotated out to patrol from time to time during the custody assignment to vary their experiences.**

**3. The LASD should give serious consideration to a pilot test program where half the deputies randomly chosen from a given Academy class are sent first to**

patrol and their progress and attitudes are measured against the other half which goes to Custody.

4. Each deputy should be rotated out of Custody once every six months for a minimum of 24 paid hours of community service work in a social service agency, be it a homeless shelter, a drug rehabilitation facility, an AIDS hospice or any other program that will round out the missing elements in the young deputy's education. If a young deputy needs to spend time in a jail to learn about life on the streets and how to deal with all types of bad people, then he or she equally needs to spend time learning about the struggles in the lives of good people and how to extend compassionate care to people of differing walks of life, differing races, differing nationalities, differing sexual orientations and differing economic circumstances. If each station within the LASD adopts a community policing model, these placements will not be difficult to accomplish. The County should supplement the LASD budget as necessary to accomplish this recommendation.

5. The LASD should study how to shift the ratio of sworn deputies to civilian employees working in the jails in favor of fewer deputies and more civilians.

6. The probationary period should be extended to cover the first six months of patrol.

### *Recommendations Regarding Training and Oversight:*

1. Training officers in custody should be provided with specific training in how to orient and train new recruits.

2. Recruits should not be allowed to work modules without close supervision by an experienced training officer.

3. The improper use of force, sexual harassment, racial epithets and bias, and teaching or enforcing of a code of silence should be monitored and punished.





## 18. Patrol School

Prior to 1983, deputy personnel could, if they chose, remain indefinitely in Custody service. Commencing in that year, with the graduation of Academy Class #214 deputies have been required to "complete assignment" in both Custody and Field Operations Division. Any deputy working Custody who receives a field assignment is required to successfully complete Field Operations Deputy School ["Patrol School"] before reporting to his or her field assignment.

Patrol School was initially designed in 1974 to serve as a "refresher" course for deputies who may have been working in Custody for an extended period after their Academy training, as well as to train them in revisions in the relevant Department Policies and Procedures since their Academy training. The course is also required for lateral entry personnel as well as for any person assigned to the field who has not been in a field assignment for more than five years.

Patrol School is intended to play two critical roles in the Department's training system: (1) to prepare students to participate in the Department's Field Training Program, and (2) to introduce them to the intricacies of radio car patrol work.

### *Content of Training*

The goal of Patrol School is to provide students with the "requisite knowledge and skills" required to carry out their mission.

Patrol School consists of 136 total class hours taken over a three and one-half week period devoted to a wide variety of topics. Of the total, approximately 70 hours are devoted to training students for the occasions on which they will use various levels of force in their work. Since this training was of special interest to the investigation, it will be discussed in detail after a general sketch of the rest of the Patrol School curriculum is provided.

A wide variety of other topics are covered, including the moral, ethical, and legal contexts of patrol work; the complex policies and procedures which govern such work;



elements of specific crimes patrol deputies handle and some of the typical conflicts and citizen disputes they may encounter; and the diverse, complex and often highly technical forms of law enforcement communications, which range from report writing to the competent use of such critical tools of police work as the radio and Mobile Digital Terminal.

Although reference was made in various contexts during Patrol School to service oriented policing, Core Values, and cultural and racial sensitivity, these issues were not adequately addressed.

A full four-hour classroom session is devoted to refreshing the students' "Tactical Communications" skills. It is a class intended to increase the students' understanding of the communication process in general and to provide them with improved "tactical" communicative skills. This will enable them to communicate more effectively as police officers during interactions with citizens and suspects as well as with colleagues, supervisors and subordinates in the Department and with family members and friends. The content and the goals of this class are explicitly linked to other classes on Career Survival and Ethics and to a wide variety of courses devoted to the use of force.

### *Character and Quality of Force Training*

The inquiry was particularly concerned with the training provided to new field deputies regarding the use of force. Staff monitored several Patrol School classes, reviewed materials distributed to students and discussed use of force training with members of the Advanced Training Bureau teaching staff, trainees presently in Field Training, and current Patrol School students. Force training involved classroom lectures and discussions, but also included "practical applications," or simulations of street policing situations staged in the gymnasium or the Academy parking lot, or during a full ten hours spent at the generously donated Warner Brothers Studios in Burbank. At those

simulations, class members were confronted with situations requiring them to make decisions and take action under the close scrutiny of monitors. Inexplicably, although feedback is given, **these exercises cannot result in student failure because they are not considered a test.** Such testing would likely be substantially more effective than written testing in identifying deputies with excessive force tendencies.

Throughout Patrol School training, as in all other use of force training observed within the Sheriff's Department, the "Force Barometer" was regularly referred to as a vehicle for organizing the student's understanding of the proper sanctioned use of force. The visual representation of the barometer organizes the relationship between "suspect action" and "deputy action" in a way which prescribes the specific levels of force which are mandated in the face of escalating resistance and then aggression on the part of the suspect. Training staff regularly discussed the ethical and legal context of a peace officer's use of force and cautioned against both excessive and unnecessary force. In a typical example, a captain who was monitoring a class on "Searching, Handcuffing, and Weapon Retention" interrupted a lecture to underscore the fact that policies governing use of force were far more restrictive than they had been previously, and that they would be fired and prosecuted criminally, if they did not carefully control their mandated authority to use force in the field.

Much of the material in a course on "Situational Planning" was explicitly devoted to means by which "unnecessary force" could be avoided through effective containment and control tactics. According to research cited by lecturers in various classes, a full 96 to 98 percent of deputies' time is spent devoted to activities at the two lowest levels of "force" on the metaphorical barometer, i.e., exhibiting command presence and issuing verbal commands. The students are repeatedly reminded that the level of force that they are entitled to use is contingent upon the level of resistance shading into aggression with which they are confronted.

Although virtually every discussion of use of force was framed by some reference to

the fact that the level of force was "dictated by the suspect" and that higher levels of force were only to be used when lower levels proved ineffective, the systematic presentation of lower levels of force ("Tactical Communications," discussed above) was made only after all other levels of force had been presented and practiced. The only class sessions which occurred after the Tactical Communications course were the written tests (none of which involved tactical communication) and Mobile Digital Training. Thus, the Patrol School students entered their scenario training at the Academy and at Warner Brothers Studios before the importance of the "Tac Com" skills had been impressed upon the recruits. The inquiry also noted that the Patrol School course on "Policy and Procedure of Force and Firearms" was given on the 15th day, well after the classes and practical applications devoted to force issues. Firearms training, on the other hand, was initiated on the 2nd day of class.

Overall, Patrol School does not provide sufficient emphasis on force issues to detect and correct any increase in racial bias or tendency to use force which the deputy may have developed in the custody assignment. Such training is necessary for some deputies, as recognized by a high-level officer who stated, "Sometimes something happens to people in custody. Not everyone you're dealing with is a criminal."

### *Patrol Testing and Assessment*

**It is almost unheard of for a student to fail Patrol School.** The investigation found only one student who was rejected by his field assignment and sent back to Custody (in 1986) because of inadequate performance in Patrol School. Although some of the curriculum is challenging and, at times, innovative, the testing of students focuses primarily upon technical aspects of the role of a patrol deputy.

**Formal testing in Patrol School does not include role-playing examinations in any area, including force.** Rather, it is limited to five written examinations in the areas

of spelling, report writing, radio code sections, a closed book examination on general information such as probable cause and first aid, and an open book examination on matters which may require research such as Penal Code sections.

The closed book test for Patrol School is the only test on which issues of force appear. **This test does not adequately evaluate knowledge of force principles.** Reduced in 1991 from 150 to 50 multiple choice questions, only six questions on the test concern use of force. Of these, four address policy limitations on the use of force and two deal with the mechanics of applying force. Similarly, there are only four questions concerning tactical communications and the role that communication skills play in reducing the probability that a deputy may be required to resort to force.

Not only are there too few questions on force-related issues, but the questions themselves are often too easy to be effective. One true-false question is "A good police officer will be able to avoid arguments many times by employing good tactical communication techniques."

A student who fails one or more of these five tests is provided remedial training and given a second opportunity to pass the test. If the student fails following remediation, he or she is sent to a Patrol Station and given two months' remediation. If that is failed, he or she must return to Custody and must within one year meet Patrol standards or be discharged. Of the 645 Patrol School trainees who graduated in 1990 and 1991, 25 failed to become patrol certified and were returned to custody. As of June 1992, only one of these deputies has been discharged, and this was the result of unrelated criminal charges rather than failed remediation. In nine classes of Patrol School held in 1991, five students failed spelling, one failed report writing, and one failed the closed book section. None has yet been discharged.

## *Recommendations:*

- 1. The initial framing of Patrol School should be revised to clearly underscore and discuss the service oriented policing model which has been adopted by the Department, the Core Values which are to shape their behavior in the field, and the problems of cultural and racial sensitivity which lie at the heart of the contemporary crisis in policing.**
- 2. Force training in Patrol School should be systematically organized so that it is initially framed by the Department Policy and Procedure lecture and follows the Tactical Communications class which will bolster its importance within the overall force framework.**
- 3. The written tests must be revised to include a greater number of more sophisticated questions regarding force.**
- 4. Patrol School testing must be changed to include role-playing examinations which test deputies' ability to apply the force policy and techniques in difficult situations.**





## 19. Field Training

The person who teaches a young deputy what it is really like to be an officer in the Sheriff's Department is the deputy's Field Training Officer (FTO). We were told time and again that the first six months of patrol duty is the most crucial time of all; it is the critical period when a recruit is actually functioning for the first time in the field as a police officer. It is where the young deputy is imprinted: The attitudes and habits formed during the tour of duty with the FTO will stay with that deputy for the rest of his or her career. Indeed, many FTOs reported explicitly modeling their own training philosophy and practices on those they had learned from their training officer.

### *Quality of Patrol Training*

Upon the conclusion of the custody assignment, a trainee is assigned to a station and to a specific FTO. The deputy then begins supervised patrol training that under normal circumstances lasts for six months. The FTO evaluates the trainee's performance in monthly written reports. With satisfactory progress, the trainee will spend the last month of training in his or her own car, with the FTO continuing to supervise and evaluate. Training may be extended for one or two months for remedial work in problem areas. Trainees who are deemed not ready even after this remedial period are returned to Custody for an additional year before getting a second chance to pass patrol training. Those that fail this second chance are terminated from the Department.

**In practice, ultimate failure to pass patrol training is rare.** In 1990, only two deputies were discharged from patrol, and neither of those involved force. In 1991, only four deputies were discharged from patrol. Of those, two involved criminal misconduct. Another involved sexual harassment. Twenty-two resigned during patrol training in 1990, and 36 resigned in 1991. We were unable to determine with any precision what the grounds were for the resignations, although we are aware of at least one resignation prompted by the abusive conduct of an FTO.



This low rate of failure of patrol training repeats the pattern of low failure rates for each previous level of training. It also contrasts sharply with admonitions given to FTOs in FTO School that the low failure rate in prior training requires them to assume a major gate-keeping function: **"The Academy pushes all but 3% of the classes through. It's hard to fail. We also lose a few in Custody. Just a few. That means you bear the brunt of trying to weed out the chaff."**

We believe that these Departmental expectations are currently unrealistic. Even if the patrol assignment presents the Department with its most fruitful opportunity to "weed out the chaff," FTOs often lack the experience, clout, training and back-up by superiors necessary to do so.

Patrol training is extremely stressful and anxiety-producing for many deputies. Their careers within the Department depend upon successfully passing patrol training, an outcome that is to a large extent dependent upon their FTOs' evaluation. In addition, trainees move within a matter of days from Custody to street patrol, where a whole new set of demands is suddenly thrust upon them — making stops and arrests, learning to use the penal code, "writing paper," operating a computer, talking to people encountered on patrol and carrying firearms.

As one deputy put it: "In custody they're already there; you're a big-time baby-sitter. In patrol you're deciding whether they're going to jail. You have to know the laws."

Another deputy put it this way: "In working patrol you're in an uncontrolled environment. In custody it's easier to pacify people if you have to. . . . Dealing with the stress [in patrol], that's been hard."

The LASD has focused recently on the pressures to which deputies are subject during patrol training, and it has urged FTOs to reduce the stress. In FTO School, for example, FTOs are urged to call their trainees by their first name and to refer to the trainee as "deputy," not "trainee," "particularly in the presence of citizens."

However well intentioned, these policies appear only partially effective. For despite

calls for greater sensitivity, some FTOs still adopt authoritarian, "high stress" training styles modeled on military practice. These FTOs still insist on being addressed as "sir," instruct by giving orders without explanation and require trainees to carry out the dirty work of preparing to go out on patrol (carrying the FTO's gear to the car, getting the car ready, etc.). Some FTOs apparently do not allow their trainees to eat while on duty, or else they pile the work up so that the trainee has no time to eat. Not only does this highly authoritarian style often fade into hazing, but it also appears to maximize trainee anxiety and, in at least some cases, to inhibit effective learning. One trainee noted, for example, that he often "messed up" in performing tasks under the gaze of his own FTO which he carried off without problem when riding with other FTOs.

Some trainees report accumulating so many reports to write that they have to work significant overtime without commensurate compensation to complete them.

The practice of putting trainees under acute stress was studied by the LASD in 1990 in a research project on hazing. Some of the stress can be characterized as part of rites of passage or fraternity-like pranks. Other forms of hazing identified by the study clearly had a very different character, cutting to the very core of police patrol training. Some deputies reported (and still report) being repeatedly degraded and humiliated by their training officers.

Even more threatening to the core of police work are various "tests" to which some FTOs subject their trainees. In one reported instance, an FTO told his trainee that they were going to arrest a group of men reputed to be drug dealers. The group was stopped, and they arrested two or three. Their search turned up some rock cocaine nearby, but not in the possession of any of those stopped. The FTO then asked the trainee: "Okay, I see this as a possession for sale. How do you see it? Run it by me."

**The trainee would "flunk" the test if he did not lie and indicate that he would write that the rock cocaine was found on the person of one of the men. The trainee commented: "They tell you what to write, and you write it... As a trainee, you are not**

afforded the luxury of saying that is not right. They want a good arrest. If you say I don't see that arrest, I think you got the facts wrong, you won't get off training... They'll hit you with every rotten call. They'll bury you!"

We are unable to assess with exact precision the extent of "hazing" in the Department. While the Department's Hazing Research Project Committee in October 1990 judged that the frequency of hazing is probably "fairly low," our assessment is that some hazing persists and may even occur frequently on less closely supervised shifts in the so-called "ghetto" stations.

## *Field Training Officers*

### **Selection**

The LASD appears to concede that its field training programs have suffered because of hazing and because FTOs seemed to be selected more on the basis of their aggressiveness and arrest records than on their skills as mentors and role models. The Department is thus currently considering a series of changes in the selection criteria for FTOs.

According to current proposals, candidates for FTO positions would be evaluated on the following criteria:

*"Assists the community and its citizens in solving problems and maintaining the peace. Treats both sworn and civilian department members equitably. Does not knowingly break the law to enforce the law. Is fully accountable for his/her own actions or failures. Is guided by the reverence for human life when considering the use of deadly force."*

Additionally, candidates would be chosen on their reputation for

*"personal and professional integrity, protecting life and property, preventing crime, apprehending criminals, always acting lawfully, being fair and impartial and treats people*

*with dignity."*

These revisions would mandate an interview and a background investigation which includes use of force, past allegations of misconduct, disciplinary records and driving history. Any founded investigations occurring within the past 12 months involving honesty, integrity, unnecessary or excessive use of force, or two or more preventable traffic collisions, would automatically disqualify an applicant.

Most FTOs are relatively inexperienced officers; candidates are required to have completed only one year of patrol duty beyond patrol training. Deputies aspire to become FTOs for a variety of reasons. Some want the pay bonus. Others are genuinely interested in the training role. Others are desirous of upward mobility, and service as an FTO is a requirement for many promotions within the Department, leading at times to the selection of FTOs who lack strong commitment to teaching and training.

Department regulations currently allow each station to develop its own procedures for selecting FTOs within the broad guidelines of the LASD selection criteria. Procedures vary from station to station. Usually sergeants provide some evaluation or ranking of FTO candidates based on their direct contact and knowledge. Lieutenants rank candidates on the basis of interviews. The two rankings are then combined and a short list is sent to the captain for final decision.

At present, the collection of information about a potential FTO's past performance varies from station to station. Some captains obtain a report from Internal Affairs on a candidate's disciplinary history. Others rely upon their own records, and still others do not routinely do a background investigation.

### **Training**

Deputies appointed as FTOs are required to attend Field Training Officer School. Earlier policy required completion of FTO School within one year of appointment. The Department modified this policy in January 1991 to require all FTO candidates to attend

FTO school prior to the assignment of a trainee. The LASD admits, however, that it is not always in compliance with this policy because of the large number of trainees assigned to stations and the infrequency of FTO schools.

Thus, a significant number of FTOs attend FTO School after they have been assigned and have begun to work with a trainee. While most begin FTO School within a month of beginning to supervise a trainee, some attend FTO School only after having completed the training of at least one trainee.

FTO School involves 40 hours of classroom instruction. At present, the curriculum includes no training in tactical communications or cultural awareness, and little content that is relevant to community-oriented policing. The LASD is considering adding courses on communication skills, cultural sensitivity, and non-discrimination to the FTO School curriculum. We also note that only a limited amount of time is devoted explicitly to teaching skills. Instructional techniques are imparted primarily through lectures and written guidelines, providing FTOs with little or no practical training or experience in using these techniques. We believe more instruction and supervised practice in how to teach is in order. We also think that the initial period of classroom training should be followed up with regularly scheduled sessions providing continuing education. These sessions would focus on specific topics and issues that characterize middle and later phases of patrol training and would be conducted by experienced FTOs as well as by Academy staff.

### **Deselection**

FTOs who do not meet performance expectations are "deselected," that is, removed for cause from the list of deputies qualified to serve as FTOs. From June 1990 to June 1992, 40 FTOs were deselected out of a total of 275 FTOs. We were unable to determine precisely how many of these deselections were for cause as opposed to other reasons. It appears that at least a majority resulted from misconduct, performance problems or

failure to meet training staff and unit commanders' expectations. The stations deselected the highest number were East Los Angeles, which deselected 12, and Temple and Firestone, which each deselected 4.

The high number deselected during the past two years appears to have at least two major causes. First, in one station, a new captain began to enforce performance standards for FTOs after a long period without enforcement. Second, the Department acknowledged, a number of deputies with "marginal" qualifications were selected in order to have sufficient FTOs for the unusually large numbers of trainees assigned to patrol during this period. A number of those FTOs proved to be not qualified.

While recent deselections appear to have been appropriate, the Department itself must assume responsibility for creating the problems which required deselection. The LASD cannot tolerate lack of enforcement of FTO performance standards. Nor can it select FTOs whom it knows to be marginally qualified. Even if poorly performing FTOs are later deselected, their poor performance can do irreparable damage to a trainee's development.

### *Recommendations Regarding Field Training:*

**1. The Department should develop, implement and enforce patrol training policies based on models and practices involving professional apprenticeship rather than military subordination. Trainees should be regarded and treated as patrol partners in need of special, individualized training, not as "boots" to be embarrassed, humiliated or tested.**

**2. The Department should develop effective procedures allowing trainees to receive regular evaluations of their performance, independent of those provided by their FTOs. One such procedure would involve requiring the training sergeant to take the trainee out on an eight-hour shift once a month and to evaluate his/her performance directly.**

3. Effective limits should be placed on the amount of time that trainees can actually work on any shift (10 hours), in order to prevent punitive practices such as "burying the trainee with paper."

4. Field Training should promulgate and teach skills for interacting with people as a core component of the craft of police work, at least equal in value to "officer safety" and knowledge of penal codes.

### *Recommendations Regarding FTOS:*

1. Selection criteria should be standardized and uniformly applied at the station level.

2. Selection criteria should emphasize demonstrated skills and commitment to working with the public in ways compatible with an orientation toward community policing. This emphasis is well reflected in proposals currently under review in the Department.

3. The Department should require FTO selection boards and station captains to document FTO candidates' prior performance in working with the public and in community policing. This information would include evidence of any special training in key areas of community policing, records of citizen commendations and citizen complaints, and a review of all entries in the station field performance book for the prior two-year period involving the applicant.

4. All formal administrative investigations for allegations of excessive force and harassment should comprise a mandatory part of the record of all FTO applicants. This would include all investigations conducted by the IAB and the local unit, whether founded or unfounded. Any founded investigations involving honesty, integrity, unnecessary or excessive use of force, or hazing within a relevant time frame should automatically disqualify any candidate.

**5. The Department should not make FTO duty a necessary step for promotion in that it encourages persons to become FTOs who may not have the training skills or interest.**

**6. All FTOs should attend FTO School prior to working with his/her first trainee.**

**7. FTO School should be organized to provide continuing supervision, training and discussion for the entire six-month period of an FTO's initial field training experience.**

**8. Skills and practices for community policing, culture awareness and tactical communications should be given more prominent places in the FTO School curriculum.**





## 20. Continuing Education

### *General Requirements*

Once a deputy has completed Patrol Training, the only continuing education required by the Department is 24 hours of training every two years. This is the minimum required by Police Officers' Standards and Training Commission.

In order to meet this POST requirement, a deputy has two choices. First, he or she can select courses from Departmental offerings and other institutions. The Department will pay for one course per semester. Second, a deputy can take a 24-hour training course proposed by his or her unit which has received POST approval.

By either method, the courses which comprise continuing education are largely technical in nature, such as computer training or training in a new weapon. The training courses proposed by each unit vary widely from unit to unit, but none includes training on force or cultural awareness. The Department has not imposed any particular course requirements upon deputies' selection of courses or upon units' training proposals.

### *Cultural Awareness, Prejudice & Discrimination*

A serious message has been sent throughout the Department by the lack of any commitment or deadline to require Cultural Awareness or Reducing Prejudice training as part of continuing education, despite the recommendation to do so by the Cultural Awareness Committee. We were advised in candor that the lack of commitment is due to apprehensions of serious resistance to such training on the part of more senior officers. The reaction of a number of officers to mandatory training at the station level, for example, was predicted to be "I work in this community. How dare you lecture to me?" If, however, such training is not made mandatory for all sworn staff, the Department is in effect resigning itself to waiting an entire generation before all officers will receive needed training in these vital areas.

## *Force*

**Just as the Department does not require regular continuing education in Cultural Awareness, it does not require that all deputies receive continuing education in force issues.**

The Department does require some deputies and other officers to take Advanced Tactical Communications. Officers required to take this course include a cross-section of "problem" deputies who are ordered to attend by their superiors, average deputies, primarily from patrol, and superior officers who are included to serve as role models in the class. To date, this course has been given approximately 20 times, with about 8 problem deputies attending each time out of a total of 24 in each class. **No examination is given, and it is not possible to fail this course.** At times, a problem deputy is required to repeat the course once or more. The Department has indicated that it would like to send all officers to this course, but notes that it is very expensive to conduct.

Advanced training in the use of firearms is available at Laser Village, a training facility located at Biscailuz Center. Deputies in patrol also receive "recurrent briefings" about twice a year in the proper use of force and firearms.

With these exceptions, the Department does not conduct a comprehensive continuing education effort to assure that all deputies, or even all problem deputies, receive regular, ongoing training in the proper use of force.

## *Recommendations:*

- 1. Require regular continuing education in Cultural Awareness for all Departmental personnel.**
- 2. Require regular continuing education in Reducing Prejudice and Eliminating Discrimination for all Departmental personnel.**
- 3. Require regular continuing education in Tactical Communication and the**

appropriate use of force for all Departmental personnel.

4. Require all deputies identified as "problem deputies" to attend Advanced Tactical Communications and refresher courses in the appropriate use of force. In each such course, the performance of each "problem deputy" must be assessed and appropriate action must be taken in the event of unsatisfactory performance.



## 21. Stress Management

### *Stress Management & Wellness Programs*

Stress management and wellness programs are extremely important components in an overall effort to stop excessive force. **We found that the LASD has ignored or given only token support to these critical programs.**

A comprehensive stress management program would strive to identify all sources of psychological, interpersonal and organizational stress in the total environment and to systematically assist all personnel to find and use personal and organizational resources in order to cope effectively with stress.

An effective wellness program should complement the stress management program by providing necessary information and resources to promote the health of individuals and their families. Promotion of health enhancement through physical conditioning, nutrition and other healthy behavior would improve the overall health status of the organization. It would also reduce many risks associated with illness, worker's compensation claims and disability retirements.

We found that the LASD has virtually no formal stress management or wellness programs in place on an organization-wide basis. Instruction at the Academy for deputy sheriff trainees is limited to a brief course on stress management which consists primarily of lectures on physical conditioning. No courses at the advanced training level are offered to address the psychological stress reduction and wellness needs of Department personnel. Formalized stress management programs in place at patrol stations and custody facilities are limited to a well equipped gym, a set of weights and intradepartment sports competitions.

Wellness program efforts fare only slightly better. A single LASD wellness deputy has been designated for the entire department and has been in place for one year. Her mandate is to develop wellness pilot programs for department-wide use and seek external grant funding to support their implementation. This would be a Herculean task for a grants office

of three to four experienced and successful grant writers. In actuality, this one wellness deputy has been delegated other responsibilities as well. In the last year, she equally divided her time among wellness programs, safety office back-up functions, and special projects.

On a regional basis, Field Region III has given each unit responsibility for promotion of wellness programs and has designated one deputy in the region to coordinate activities. Some moderate amount of activity has occurred.

If management does not provide effective stress reduction support, deputies will look to their peers as the only source of support. Unfortunately, deputy peer group support often reinforces rather than ameliorates stress-related behavior. Management must recognize the importance of developing effective programs in order to preclude negative peer group reinforcement of stress-related behavior.

### *Psychological Services*

The LASD office of Psychological Services provides psychological services for Department personnel and their families as well as training and consultation for Department management. In order to encourage the utilization of these services by deputies, as part of a Department-wide wellness program to encourage self-identification of problems which may lead to excessive force, **we believe that the counseling services now provided by this inhouse unit should be handled off-site by an external provider.**

Individual counseling services are provided to deputies on a voluntary basis, often upon referral by a supervisor. They include crisis intervention and critical incident debriefing regarding matters such as witnessing a suicide or the shooting of a child. As many as 10 to 20% of the deputies utilizing these services are referred to the unit for force-related concerns. The remaining referrals are for marriage, family and individual problems.

Psychological Services also provide consultation and training for management on a range of issues, as well as assistance to supervisors on a case-by-case basis regarding how to deal with the deputies' problem behavior.

Because of the services it provides for management, Psychological Services may be perceived to be part of LASD management rather than a professional clinic where Department personnel can discuss intimate matters in a safe and confidential manner. This perception may be exacerbated by the somewhat defensive personalities of some law enforcement personnel, who may not believe the Department's resolve fully to implement stress management and wellness programs that encourage psychological counseling as needed.

Employees will not utilize services to the extent necessary if there is a perception that their supervisor or employer will know about their personal and work problems. In order to encourage utilization of counseling services to benefit both employees and the company, private employers routinely utilize Employee Assistance Plans which are external to their organizations.

We believe that LASD must do the same.

### *Mental Health Early Warning System*

A comprehensive Early Warning System is essential to assure early identification of excessive force tendencies and appropriate Department response. As discussed earlier, the Department currently has no such comprehensive system. Nor, as will be discussed here, does the Department currently have a mental health component which is critical to an effective Early Warning System.

A mental health Early Warning System would be triggered in three situations. First, mental health evaluation would be required when an officer is involved in a critical force-related incident or accumulates a certain number of lower level, founded or unsubstantiated



force-related incidents. In these situations, the deputy should be required to participate in a psychological evaluation which is designed to capture behavioral and emotional factors predictive of propensities to excessive force. The evaluation would be conducted by the external Employee Assistance Program, which would design and mandate a psychological treatment plan in conjunction with the deputy. Deputies would be required to attend and cooperate, but the matters discussed in counseling would remain absolutely confidential. Feedback to supervisors would be limited to whether the deputy attended and cooperated.

Second, when an officer displays emotional or force-related behavior which impacts job performance, a mandatory referral for evaluation would be made. The evaluation and treatment would proceed as with the first component, except that a different series of clinical interventions might be necessary in order to obtain the cooperation of the deputy. If possible, this component should remain outside of the progressive discipline system.

The third type of Early Warning System referral would occur when a mental health evaluation is voluntarily initiated by a deputy at the suggestion of a peer or supervisor. Such a referral should be triggered by psychological problems associated with a propensity to force such as marital problems, physical abuse or threats, frustrated attempts at communication or erratic behavior. The evaluation and treatment would proceed as with the first two components except that cooperation is likely to be less of an issue in a voluntary self-referral.

### *Fitness for Duty Evaluations*

The LASD refers too few persons for psychological testing for fitness for duty, and the county psychologists who do the testing find far too many of those referred as fit for duty. The County finds people unfit only in the most extreme cases. It seems only to find people fit or unfit. It does not utilize other alternatives such as "fit for limited duty but do not let him have a gun." Out of a force of approximately 8000 sworn personnel,

only 16 deputies were given fitness for duty exams on purely psychological grounds during 1990 and 1991, the years we reviewed. One of the 16 exams was terminated before completion.

We disagreed most strongly with the county psychologists in their judgments about deputies referred for excessive force. Of the 6 deputies who were referred on this basis, the county psychologists found 5 to be fit for duty. By contrast, our staff psychologist found 5 of the 6 **unfit for duty** and also concluded that they were not amenable to treatment or other rehabilitation in a limited duty setting. A review of the files revealed that these deputies, in general, showed a clear, ominous, frightening and escalating pattern of aggression and force.

Of 9 deputies who were referred because of possible psychological impairment, the county psychologists found that 8 were fit for duty and 1 should be given limited duty. By contrast, our staff psychologist found only 1 to be fit for duty and only 1 unfit for duty. With respect to the other 7, he would have recommended limited duty without a gun for all but 1, whom he would have placed on limited duty, allowing him to keep his weapon. He found the deputies who were referred for possible psychological impairment — as distinguished from force-related referrals — to be far more amenable to treatment in limited duty settings.

Psychologically impaired deputies with serious marital and family problems were ultimately willing to accept help because they knew they were losing control. In contrast, deputies with force-related referrals were suspicious, distrustful, paranoid-like and believed that management was wrong and out to get them. These deputies felt they were just doing their job and that the force they had used was appropriate. They did not believe they had a problem and thus were less amenable to treatment.

The LASD does not require routine psychological testing of its personnel to determine if the stresses of life and the job are causing deterioration in self-control or burn-out that could create a potential for excessive force. On a case by case basis, however, the LASD

refers personnel for psychological evaluation and testing to outside psychologists in the County Office of Health Services.

These psychological evaluations are typically initiated by a captain when it appears that a deputy is experiencing a personal, family, or marital crisis that causes him to question whether the deputy can perform the job safely. There may be concern that a deputy's judgment is too impaired to continue carrying a firearm, and a captain may relieve the deputy of the weapon in connection with the psychological examination.

The memoranda from the captains to the county psychologists indicate that the fitness for duty referral is a last resort after the failure of the deputy to respond to counseling by supervisors following previous force incidents. In other words, the referral comes only after the captain "has had it" with the deputy. The referral is essentially a request for professional assistance after other efforts have failed. We believe that captains are waiting too long before referring these very troubled individuals for fitness evaluation and may be subjecting the county and the public to unnecessary risk.

The examinations consist of psychological tests, an evaluation of current job performance, a telephone interview with the referring supervisor, a review of pertinent available medical or historical psychological information, and a clinical interview.

The tests typically include the Minnesota Multiphasic Personality Inventory (MMPI), which is an objective test normed against abnormal behavior, and an Incomplete Sentences Blank test (ISB), which is a subjective test that provides personal viewpoints and opinions and can reveal biases. The clinical interview evaluates perception, judgment, sensation and intellect. The interview uses the results of the MMPI and the ISB to clarify and confirm patterns or trends and leads to a diagnosis of any mental illness and a judgment regarding fitness. It is an effort to predict future behavior based upon an evaluation of repeated past behavior and current job performance.

Case-by-case reviews of all evaluations conducted in 1990 and 1991 were made by our staff clinical psychologist. The review did not include a clinical interview with the

deputy nor a telephone interview with the supervisor. These are disadvantages to be sure, but the audit we conducted of the fitness for duty evaluations comported with the acknowledged standards for such secondary audits. In any case, our staff psychologist reviewed the County psychologists' notes from these interviews in the file.

We found that deputies undergoing force-related referrals were younger than the deputies referred for psychological impairment, with average ages of 27.8 years and 36.2 years respectively. Those referred for force had an average of 5.3 years in the LASD whereas the impairment referrals had 8.0 years of prior service. Four of the deputies referred for force came from patrol assignments, two from custody assignments. All were male.

**We were dismayed to find that the deputies referred for force problems had an average of 12 prior force-related incidents. The mean number of force-related incidents was 6.4. The higher average resulted from one deputy's self-reported total of 40 prior force-related incidents. By contrast, those referred for psychological impairment had an average of 1.5 prior force incidents. We conclude that the LASD is much too tolerant of prior force incidents; it appears that only after an overwhelming number of force incidents does it occur to the LASD to have someone evaluated for fitness for duty.**

**We were even more surprised to find that of the average of 12 prior force-related incidents reported to county psychologists, an average of only 1.2 of these incidents had been the subject of any recorded internal investigations by the LASD on file in the card index of the Internal Affairs and Internal Criminal Investigation Bureaus. Of the 7 prior force incidents for the 6 deputies that were investigated, only 4 were held to be founded. We conclude that there must be a great deal more force occurring than results in a recorded internal investigation. The prior incidents of questionable or clearly excessive force that are reported to the psychologists by the deputy or his referring supervisor are far greater in number than the force incidents recommended by the supervisor for internal investigation. It is clear that captains are underreporting questionable force and are not conducting investigations leading**

**to possible discipline in all force-related incidents.** These findings clearly underscore our recommendations elsewhere that **tracking and early warning systems must be implemented immediately throughout the Department.** Moreover, the LASD must make it clear that **all questionable force is to be investigated for possible discipline.** **It is unacceptable that a captain can report an average of 12 prior questionable force incidents to the psychologist where the official files show an average of only 1.2 force investigations.**

We also asked ourselves and others why we would find so many more deputies unfit for duty than does the County. The answer appears to be a fear of reversal of such determinations by the Civil Service apparatus. The County seems to be extraordinarily cautious and conservative about finding anyone unfit for duty and does so only in the rare instance when the objective psychological test is abnormal. We can appreciate a reluctance to draw harsh conclusions. But on the other hand, the County is failing its responsibilities to the public at large if it is letting deputies carry guns and batons who in truth have no business doing so. It is also too restrictive to have only two categories: fit and unfit. There are a variety of gradations in between; and if a deputy is otherwise able to perform useful service, he or she should be classified as fit with qualifications such as "without weapons."

The county psychologists who perform these evaluations should be given a more thorough understanding of the many jobs that it is possible to perform in law enforcement, and they should tailor their recommendations to those jobs. It may be that a given individual should not carry a gun, but might perform well in other policing functions.

### *Recommendations Regarding Stress Management & Wellness Programs:*

1. The Department should develop a deputy-sergeant stress reduction

mentorship program. Deputies would meet with their designated sergeant one to two times a month at the deputy's convenience to discuss stress-related feelings and concerns. The sergeants would have responsibility for ensuring that a stress reduction agenda is followed by creating a safe and caring environment and initiating interaction directed at deputies.

2. Sergeants must be given specific training in counseling skills and methods to encourage deputies to be less defensive and more open with their sergeants. Sergeants should be held accountable to evaluate the performance of their deputies in utilizing effective coping strategies in response to their discussions.

3. Sergeants should meet with a psychologist consultant to assist them in identifying stress reported by their deputies, in assisting deputies to cope with identified sources of stress, in monitoring these deputies' mental status and in making recommendations for referral to professional mental health counseling if needed. Confidentiality issues should be vigorously explored and program adjustments made to maintain confidentiality.

4. It is critical that the concepts of stress reduction and wellness programming be embraced, supported and promulgated by top and middle management throughout the organization as part of the implementation of core values. Therefore, the same model of stress reduction mentorship pairs created between deputies and sergeants should also be implemented up the chain of command in a similar manner with participation by lieutenants through assistant sheriffs. Without an acceptance of the premise that stress exists throughout the organization and that it may be ameliorated by building upon existing core values that assert the value of each member of the organization, a double standard is created which sends a strong message that stress reduction programs are for rank and file deputies only.

5. The Department should appoint a working committee drawn from all levels of the command structure to determine the best organizational structure to support

and promote effective stress management and wellness programs. These initiatives and programs must be institutionalized in a manner that best promotes department-wide acceptance on the one hand and centralized monitoring of accountability on the other.

6. Department managers should build upon the organizational structure identified in Recommendation 5 and determine the best method for consulting psychologists to use in reporting to captains, chiefs and the Sheriff about the "State of the Organization" in its stress reduction efforts, especially as it relates to use of force department-wide. Captains, chiefs and the Sheriff would then have critical feedback on how effectively the organization is promoting stress management and wellness programs. Again here, confidentiality must be protected.

### *Recommendations Regarding Psychological Services:*

1. Psychological Services should be externalized from the LASD. Psychological treatment that is provided on an ongoing basis or does not require emergency response should be available at an external Employee Assistance Program.

2. The Department should maintain an inhouse Psychological Services Unit to provide ongoing department-wide consultation, training, emergency clinical psychological services, and emergency crisis intervention services.

### *Recommendations Regarding Mental Health Early Warning System:*

1. Psychologists and managers should design a mental health Early Warning System which requires deputies to present themselves for an especially designed

psychological evaluation that is triggered by either a numerical accumulation of lower level force-related incidents or one critical force-related incident.

2. Psychologists and managers should design a mandatory psychological evaluation leading to a viable treatment plan for deputies referred by supervisors who have a concern about problem behavior that may become force-related.

3. Psychologists and managers should design a voluntary component of a mental health Early Warning System that is triggered by conduct or emotional behavior indicative of a wide range of psychological problems. An emphasis should be placed on the evaluation of force-related factors and an appropriate treatment plan designed.

### *Recommendations Regarding Fitness for Duty Evaluations:*

1. The Psychological Reevaluations should be conducted by psychologists who have specific job-related knowledge of the dimensions of law enforcement work in the LASD.

2. The Psychological Reevaluation should utilize an evaluation strategy consistent with the prevailing standard of practice and the state of art in prediction of excessive force. Reliance on psychological test findings to the exclusion of force-related history and assessment of personality within a clinical interview represents an abdication of professional responsibility. In making judgments, psychologists must be guided by current professional standards rather than fear of reversal by the Civil Service Commission.

3. A wider range of findings than fit and unfit for duty should be utilized, including limited duty with no weapon. Psychologists should make recommendations for more in-depth clinical evaluations and treatment alternatives where appropriate. Follow-up evaluations should be required where a limited duty



or other evaluation or treatment recommendation is made.

4. LASD must make Psychological Reevaluation more responsive to the needs of the department. All LASD supervisors should be oriented in the use of the Psychological Reevaluation.

5. All LASD supervisory personnel should receive education on the seriousness of force-related behavior problems. Supervisors should receive training in recognizing warnings or high-risk indicators of force and how to counsel identified deputies in alternatives to the use of force.

6. Where a pattern of repeated use of unnecessary force is found and a deputy does not benefit from supervisor or professional mental health counseling, the deputy should be discharged.



## 22 . C o m m u n i t y O r i e n t e d P o l i c i n g

Sheriff Block emphasizes "service-oriented policing," and as we understand the term, it shares elements in common with a philosophy of law enforcement known as "community based policing" or "community policing." As will be developed below, **we view the immediate, Department-wide implementation of community policing as our single most important recommendation for reduction of excessive force cases.**

Although the Sheriff's Department has taken initial steps in the direction of community policing, we believe that fiscal and human resources must be made available for the rapid implementation of community policing at each Station and throughout the Department. What we urge therefore is that the budget of the Department be increased to fund the immediate implementation community policing.

Community policing is not yet practiced in the Sheriff's Department to an adequate degree. We do, however, want to recognize and commend Sheriff Block's efforts to foster and encourage positive interaction between the Sheriff's Department and residents, and we believe that many of his current programs are valuable and point in the direction of community policing. Some of these programs are discussed in the accompanying sidebar.

Community policing proceeds from a recognition that the police alone cannot deal with crime or with all the social ills which give rise to crime. As stated in the June 1991 issue of Law and Order, "[c]rime is a complex social problem that requires total community involvement for successful resolution. Proactive prevention of crime is a much more sensible approach given the dismal record of reactive, incident-driven policing."

Community policing is not an effort simply to improve relations with citizens by projecting a positive image of the police. It is far more than public relations efforts. It is more than what exists within the Sheriff's Department today, which are some well-intentioned and well-run community-oriented programs in an otherwise traditionally structured and managed police department.

Rather, community policing is a philosophy of law enforcement that builds up from a base of partnerships created and nurtured at the station level by the deputies, sergeants and

One of the most successful programs is SANE, the Sheriff's Substance Abuse Narcotics Education program. It is completing its fifth year of teaching fourth, fifth, and sixth graders throughout Los Angeles County about the risks and dangers of drugs and gangs. The SANE program has been upgraded from a unit to a bureau, is commanded by a captain, and has 63 sworn personnel teaching in 415 schools in 54 school districts. Several schools have expanded the SANE program to include the seventh and eighth grades. A related program, entitled Drugs, Pregnancy, and You, is being given in more than 40 high schools in Los Angeles County.

The Youth Athletic League is also a very successful effort that should be expanded.

Among other innovative programs the Sheriff has initiated are a program at the Carson station where deputies are invited to dinner with host families in the service area; a bilingual community newsletter at the Firestone Station; a program at the Lynwood Station where housebound seniors and handicapped persons are called to see if they are okay and where a failure to answer calls may result in a visit from a radio car; ↵

lieutenants with community organizations and individuals. As described by Robert C. Trojanowicz in the FBI Law Enforcement Bulletin for October 1990, community policing is a planned and fully articulated "process of reducing and controlling the contemporary problems of crime, drugs, fear of crime and neighborhood decay, and [an effort] to improve the overall quality of life in the community."<sup>2</sup> The essence of community policing is that every person dealing with the police is to be treated with dignity and respect, even in difficult circumstances when the person is abusive, aggressive, resistant and provocative. It connotes a breakdown of the "us vs. them" attitude and the substitution of a thoroughly professional approach.

Community-based policing breaks down the isolation of a lone police officer in a patrol car responding to radio calls; hence, the emphasis on bicycle and foot patrols, smaller beats, greater continuity of police personnel in a given community, and firsthand and first-name knowledge of the community and its residents. It facilitates ongoing dialogue between a community and its police concerning priorities in law enforcement, preventative crime measures, responses to emergencies and forward planning. It measures its success not so much by the numbers — number of arrests, response time — but rather in terms of citizen involvement, improvement in the quality of life, proactive crime prevention, coordination with social agencies and the consequential reduction of lawsuits and complaints of brutality, excessive force, and rude or demeaning behavior or language.

An excellent example of community policing in action is the partnership that has developed between the Sheriff's West Hollywood Station and citizens and city administrators from West Hollywood. In October, 1991, street protests broke out in Los Angeles County in response to Governor Wilson's veto of anti-discrimination legislation favored by human rights and civil liberties groups. As reported by the Los Angeles Times, LAPD officers on horseback waded into a crowd of an estimated 200 to 500 persons gathered at the Century Plaza Hotel on October 23 to protest the veto: "mounted officers began moving into the crowd. . . and pandemonium broke out, with protesters screaming and yelling as they slowly moved back. At least two demonstrators were knocked to the ground by officers and struck several times with batons as they lay there before being taken into custody." A woman who was present with her 10-year-old daughter described her child's horror in seeing demonstrators she characterized as peaceful "being shoved, pushed, clubbed and trampled by uniformed officers. 'My daughter was frightened and crying and scared the police were going to kill her.'"<sup>4</sup> A man whose arm was broken as he was sheltering a woman who was about to be clubbed in the face by a police baton was called a faggot and told that he was sick and should be put in a mental hospital. Another man reported that he asked one officer "why he was hitting me and he continued to hit me. . . . I asked for his badge number and he continued to hit me."<sup>5</sup>

By contrast, a few blocks away in West Hollywood, the Sheriff's Department presided over a series of entirely peaceful and well-policed demonstrations in which no one was hurt, much less

a "team policing" program at the Norwalk Station and others in Field Region III where the service area is broken down into smaller areas each serviced by the same teams of patrol officers; an ambitious series of programs set up jointly by the City of Santa Fe Springs and the Norwalk Station; a joint patrol effort by citizen volunteers and Deputies in the East Newhall area served by the Santa Clarita Station; a program at the Temple City Station to discourage auto theft where cars register and receive a decal alerting deputies that the car should not be out on the street between 1 a.m. and 5 a.m.; and a storefront community service center staffed by a deputy and a citizen volunteer out of the Walnut/San Dimas Station. Additionally, at one time there was also a very effective foot patrol effort in Hawaiian Gardens.

The Sheriff's Department has also been a leader in the introduction of bike patrols. In August 1990, a bicycle patrol of two deputies per shift each day was formed at the West Hollywood Station. There are also bike patrols operating out of the Santa Clarita Valley Station, the Lennox Station, and the Lakewood Station.

These programs, and we have not attempted to name them all, are all imaginative. ←

**We particularly take note of a number of innovative programs within Field Region III. But it remains the fact that these programs exist only on a relatively modest scale and have not yet achieved the fundamental re-orientation toward community policing that we believe is essential. The Department must go much farther and much faster in order to credibly claim that it is evolving to true community policing.**

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clubbed with batons or called demeaning names.

For several nights, the West Hollywood Station had been conducting briefings with the Sheriff's Conference Committee, a group composed of five representatives from the West Hollywood Station and five representatives of West Hollywood's gay and lesbian communities. Members of that committee were present at every demonstration. The Committee and the Sheriff's Department were in constant communication throughout the demonstrations to help insure public safety, keep people calm and avoid violence by either the demonstrators or the police. "I recall when I first saw the deputies prior to the demonstration, they had already put on their riot gear," stated one of the citizen Conference Committee members. "I thought that the riot gear was unnecessarily provocative, and I shared my concerns with a lieutenant at the West Hollywood Station. He thought it over and decided that taking the deputies out of riot gear and putting them in their normal uniforms would reduce the likelihood of confrontation. The ability of the community to form a partnership with the Sheriff's Department is the key to distinguishing what happened in West Hollywood from what happened at the Century Plaza."

This partnership between the community and the Sheriff's Department to hold a peaceful demonstration is community policing and the Sheriff's Department at its best. The City of West Hollywood has a \$9 million annual contract with the Sheriff's Department to provide police services, representing roughly 10 percent of the Sheriff's Department's contract revenue. West Hollywood is a densely populated city of approximately 36,000

permanent residents. Thousands more persons drawn by night clubs on the Sunset Strip and bars and clubs on Santa Monica Boulevard visit the city during the evenings and on weekends. West Hollywood has unusual demographics. At least one fifth of the population is gay and lesbian and another fifth of the population is composed of senior citizens. Nearly a tenth of the population are Russian immigrants. There are about 150 homeless persons living on the streets of West Hollywood.

When West Hollywood incorporated, its gay and lesbian residents were determined to establish a partnership with the police and reduce perceived abrasive and demeaning behavior by the Sheriff's Department directed toward gay males in particular. The West Hollywood Sheriff's Station under the command of then-captain (now commander) Rachel Burgess was open to the idea, and the Gay and Lesbian Sheriff's Conference Committee was formed in May 1989. The Committee has 10 members: five from the community and five from sworn personnel at the Station, one of whom is automatically the station's commanding officer. The Committee is staffed by Nancy Greenstein, the Public Safety Officer of West Hollywood's City Manager's Office. According to its February 1992 progress report, the Committee "meets in private, although not in secret, to provide a formal link of effective communication, i.e. a frank dialogue between the Department and the Community in a non-adversarial environment. The goal is to enhance relations between the Community and law enforcement in West Hollywood." The Committee convenes annual public forums to solicit community input into the agenda of the Committee for the coming year, as well as to air grievances and keep Committee members in tune with community concerns.

The Committee and the Public Safety Office of the City have virtually daily contact with the Sheriff's station about abatement of criminal activity, priorities for patrol and enforcement, advance planning for parades and demonstrations and other potentially disruptive events. They also attempt to resolve complaints received about Sheriff's personnel for rudeness, insensitivity and demeaning language. The current and former

commanding officers at West Hollywood have made it clear that insensitive conduct will not be tolerated: for example, any deputy caught calling someone a faggot is automatically given a three-day suspension.

In the spring of 1991, the Sheriff's Conference Committee, the City of West Hollywood and the West Hollywood Sheriff's Station implemented a pilot training program for new deputies and transferees coming into the station. Recently, an expanded version of the pilot program has been proposed. Its major features are as follows:

1. Trainers will consist of experienced sheriff's deputies, the West Hollywood Station training staff, representatives of city government, members of various city-commissions, business people and citizens involved in Neighborhood Watch programs.

2. Training sessions will take place at the Station and will cover at least the following topics: The function of city government, including introductions of the city manager, mayor, city council and as many department heads as are available; the history of the city; a presentation by the city departments covering their responsibilities and teaching how interaction between the Sheriff's Station and the departments can improve service to the community; and presentations by representatives of various groups with special interests and needs in the community.

3. Additionally, the trainees will be given structured tours of the city, including City Hall and its various departments, the principal parks, a homeless shelter, a Russian community center, a gay bar, and a Neighborhood Watch area. Trainees will attend at least one meeting of a Neighborhood Watch group in both ends of the city, a city council meeting, a chamber of commerce or other business group meeting, among others.

4. Each trainee will be assigned to an experienced deputy who has himself or herself been through the training program. The two will work footbeat exclusively for two weeks to learn about the community on a personal level, meeting citizens, merchants and social service providers.

It is anticipated that the program will keep the lines of communication open between



the police and the community. It will reduce the number of citizen complaints.

It is hoped that it will involve the city, its citizens, its business people and its police in a partnership, and provide a forum for deputies to hear firsthand what is important to the people in West Hollywood. It should reduce the tension inherent when new deputies are placed in environments which may be foreign to their upbringing. As one of the Sheriff's Committee citizen members put it, "we do not expect deputies from traditional backgrounds to adopt our values or necessarily share our feelings. But we believe that both the deputies and the people of West Hollywood can treat each other with dignity and respect and work together to further West Hollywood's law enforcement goals."

We believe that the Sheriff's Conference Committee and the ongoing work of the West Hollywood Public Safety Office with the West Hollywood Station should serve as a template for similar programs to be established at each Station. We also want to point out that the LASD's policy of transferring personnel at regular intervals has been very frustrating to West Hollywood which has invested so much time and effort in getting to know and work with people at the station. It is a tribute to both the quality of the personnel at the West Hollywood station and the community it serves that the citizens deeply regret the loss of people at the station whom they have come to trust and like. The West Hollywood experience demonstrates the value of community policing.

We do not make light of the difficulty of fully implementing a community-based policing strategy. It requires a courageous and sweeping shift in management philosophy and habits. It requires a sea change in how police officers from the deputy on patrol to the upper management perceive their jobs. It connotes a wholly different way of measuring success and failure. The model police officer may not be the deputy who makes the greatest number of arrests with his aggressive or intimidating approach. Rather, the model officer may be the one who is skillful at managing Neighborhood Watch programs and knows whom to call to get a street lamp repaired near an ATM where there has been a rash of muggings. The best officer may be the one who can best work with community

organizers to plan for a peaceful protest march or who knows the principal of the local high school to call for help keeping an eye on a teenager who has been threatened by gang members. The best officer is one who will be evaluated not only on how many arrests she has made but also on the quality of the arrests, and her accountability to the community.

It requires top management to delegate broadly and to eliminate excessive bureaucratic layers. It means devolving real power to the unit commander to organize a community-specific partnership as he or she sees fit. It means fashioning ways to hold the unit commander accountable for failures and to reward him or her for successes. It means looking beyond the local mayor or city manager to find out what the law enforcement priorities are. Thus, it means sharing authority to set policing priorities and policies with the individual resident and groups representing that person.

Community-based policing turns a lot of things topsy-turvy. It builds from the bottom up instead of imposing from the top down. It is the antithesis of the usual model of a paramilitary, hierarchical police force. Each police station is responsible to its resident constituency for achievement of the priorities set by that constituency in partnership with the station.

Community policing requires management to act in the interest of the citizen to prevent sheltering of an errant officer. It means that the disciplining of officers cannot be done in secret. The complaining citizen cannot be kept in the dark as to whether discipline was imposed and in what form; and if this means that legislation must be amended to attain this result or union contracts renegotiated, so be it. It means that management must take a firm stance and eliminate roadblocks to meaningful discipline, demotion or termination of employees who cannot or will not treat everyone with dignity and respect.

Community policing also implies the courage to take responsibility for results. It is common to hear complaints by managers in the Sheriff's Department about the



overweening power of the police unions, the venality and cynicism of the plaintiff's personal injury bar, the overstatements of minority and ethnic organizations, the undermining by an assertedly lily-livered Civil Service Commission of efforts by management to fire officers guilty of serious misconduct, and the impediments posed by the Police Officers' Bill of Rights.

We do not dispute that these complaints by Sheriff's management in given instances may be well-taken. Nonetheless, we believe it possible, despite these impediments, to initiate a true community policing system; and if the system were fully implemented by a determined management, we believe it would lead to less abrasion between the police and those segments of the community from which complaints are most often voiced.

The diminution in abrasion will then lead to fewer citizen complaints, fewer lawsuits, fewer injuries, fewer claims and fewer dollars spent by the County to settle litigation or pay judgments. When the Sheriff's Department itself has fully implemented a community-based strategy and has taken responsibility for reducing the abrasion, its protestations and complaints about the forces arrayed against it will carry even greater force.

It is true that it can be cumbersome and difficult under current procedures to administer swift and sure discipline to a bad deputy. There is California legislation which shields the results of the disciplinary process from public scrutiny, and it should be repealed. We understand the frustration felt by the Department in that regard. It is true that there are a few cynical, venal lawyers who are prepared to sell their clients down the river by asking only a pittance for their clients so as to provide a legal basis for an award of tens of thousands of dollars in legal fees. Clearly, these abuses exist. They are intolerable, and they must be corrected.

But it is also true that most lawsuits would not have been brought if sworn personnel had acted in a professional manner. It is similarly true that the Department should do far more to teach and reinforce the message that all people are to be treated at all times with dignity and respect under a community-oriented policing strategy. The need to impose

discipline will diminish as persons are trained and encouraged to deal in a respectful way with all persons. So then will the jury verdicts and judgments against the LASD.

*Recommendations:*

**We urge that adequate additional funds be made available to the Sheriff's Department for the rapid implementation of community policing at each station and throughout the Department.**





## 23. Internal Departmental Culture

Recent Core Values and service-oriented policing efforts signal a serious management intention to shift the direction of the Department's work with respect not only to the community but also to the internal operation of the Department itself. A great deal remains to be done, however, if the Department is to remove important obstacles to reaching its stated goals. Making these changes will require a sincere and profound commitment to changing the culture of the Department from its traditional paramilitary law enforcement environment with many features of an "old boys' network" to an open institution that values the diversity of its employees and that fully utilizes the resources that they represent. If the Department cannot do so, its efforts to attract and retain the most talented personnel and to provide more community-sensitive policing are doomed to fail.

While the Department has become a multi-cultural environment, it is, in the words of one high-level officer, still a "difficult place to be if you're different." Many important issues need to be addressed to make it a more comfortable place for minorities, women, gays and lesbians. At the same time, the minority officers we spoke with were high in their praise of many fellow officers across groups, including both peers and mentors, who have provided them strong personal support, and in whom they have complete confidence.

### *Racial and Ethnic Issues*

The Department is not effectively addressing important internal racial issues and tensions. One top supervisor stated, "The Department is not comfortable with its institutional racism problem."

The Department's own Service Oriented Policing Committee (SOP) Survey of 3,764 sworn and civilian employees revealed very troubling statistics with regard to ethnic tolerance. A full 26% of respondents reported that their ethnic tolerance had decreased since joining the Department. Disturbingly, the proportion of Caucasians reporting such a decrease was a full 30%, while that of other ethnic groups was 14%.



## **MDT Transmissions**

**On September 12, 1991, the Los Angeles Times published an article about controversial transmissions by LASD deputies on the mobile digital terminals or MDTs that are installed in patrol cars. The MDT transmissions that were quoted contained examples of "gang lingo, racial mimicry, as well as remarks about women, racial minorities and violence." Among the offensive transmissions were "I'm gonna hunt for a bit . . . catch a ltr. Good hunting . . . and take'm with the first shot." "Who can do the most damage once they catch the suspect?"**

**In the wake of the Christopher Commission revelations about MDT transmissions in the LAPD, the Sheriff's Department began to regularly audit MDT transmissions on a spot basis. According to the Department, the number and frequency of offensive transmissions has declined. Our staff sampled MDT transmissions before and after a selected series of stops we thought might contain possibly offensive transmissions. Our small sample of transmissions did not turn up highly offensive comments.**

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Our investigation confirmed the presence of not only racially intolerant attitudes but also racially intolerant conduct. Racially derogatory remarks are not uncommon. One lieutenant referred to an arrestee as a "wetback." Another lieutenant asked a minority deputy who was wearing a beeper, "Are you a dope dealer?" A sergeant told an African-American deputy, "People in Ladera Heights don't deserve their homes because they all got them with drug money." A cartoon that was altered to be racially offensive was placed on a departmental bulletin board.

We also heard many reports that racial tensions were very high during the recent civil unrest and have remained high since then. Remarks made at that time included, "Is this the watermelon crowd?" and, in the presence of a small group of African-American deputies, "It's too dark in this area." We also heard a very troubling report that Caucasian deputies riding on a bus through a riot-torn area cheered and applauded each time they passed a burning building. Minority officers report feeling highly disturbed by remarks made during the disruption and believe that the unrest appears to have given some people greater license to make such remarks.

We were deeply disappointed to find that management far too frequently lets such matters go unchallenged. While some managers take swift and decisive action when such conduct occurs, a far greater number appear to do nothing. A high-level officer stated that there is no consistent management policy to confront and deal with racial issues.

We understand that the Sheriff has recently issued a strong policy statement that racially biased conduct will not be tolerated.

Such a statement is important and is overdue. At the same time, the policy will not implement itself. Unless every manager is held accountable to confront such conduct decisively, the conduct will continue.

The failure of management in this important area results not only from a lack of accountability but also from a total lack of training in techniques for confronting both individuals and groups on these sensitive issues. Management needs to develop skills in bringing these issues out into the open, in facilitating discussions in which all participants feel that their views are considered and in clearly articulating and enforcing the bounds of acceptable conduct.

Minority officers report the existence of a double standard. For example, professional development activities which would be considered "networking" for a Caucasian deputy are often called "improper connections" for a minority. Minority deputies are advised not to do anything, such as asserting their own needs or interests, which would give them a "high profile," yet they are in such small numbers in many units that they are unavoidably visible.

Racial attitudes are communicated to deputies by the Department's insensitivities and through them to members of the public. An important example is the inconsiderate, rude and racially biased treatment of African-American, Hispanic, Asian-American and other minority drivers stopped by deputies. The Department's continued tolerance of such conduct sends a clear message to both Caucasians and minorities within the Department that such conduct is acceptable. Several minority officers reported having been stopped themselves when out of uniform. One African-American officer reported four instances of being stopped and treated in a racially discriminatory fashion in violation of Departmental policy.

Similarly, Departmental tolerance of cultural insensitivity sends a powerful message to minorities within the Department. One Hispanic Field Training Officer was highly critical of deputies' lack of knowledge of Hispanic culture. He stated that he has had to stop a number of fights that occurred after deputies had treated a Hispanic disrespectfully in the

presence of his girlfriend or his "homeboys." This same FTO applied to become an instructor in the new cultural awareness training but was turned down.

Departmental treatment of public housing tenants also reveals insensitivities. At Nueva Maravilla, deputy sheriffs intrude inappropriately upon tenant privacy by indiscriminately photographing asserted gang members and by turning over to the Housing Authority arrest records of tenants' friends and relatives who are not on the lease. When tenant leaders requested a meeting to discuss these and other concerns, the officer who came treated them in an insulting fashion, saying, "Don't file complaints against the Sheriff's Department" and "Lawyers only want your money."

## *Gender Issues*

Seemingly indicative of attitudes within the Department, the SOP Survey did not even address opinions regarding women in the Department. Interviews with a number of Departmental personnel as well as the frequency of sexual harassment complaints indicate that major problems exist in this area as well.

In the last two years, the Department appears to have taken strong disciplinary measures, including discharge, in response to reported incidents of sexual harassment. The Department now trains both managers and recruits in this subject. Serious problems do exist with regard to the willingness of women to report instances of sexual harassment. It was widely reported that many male supervisors do not take the issue of sexual harassment seriously. One manager identified first-level supervisors as especially lacking in follow-through on this issue, stating, "Men aren't used to dealing with women as people."

Like minorities, women deputies appear to suffer from a double standard. If a woman deputy is ambitious, she is labeled as having "an attitude." There is a widespread feeling that "women have to be twice as good" to prove themselves and that any mistake made by a woman receives much more attention than if the mistake were made by a man.

In the recent civil unrest, for example, a supervisor made negative comments about several women who expressed difficulty in responding to rapid deployment orders because of family responsibilities. Men who expressed similar difficulties escaped criticism.

The practice of hazing still occurs in the Department, and it impacts particularly negatively upon women. The Hazing Research Project Committee reported in October 1990 that women:

*"... face more hazing than male counterparts and must perform at a much higher level than peers to be accepted. Many believe that hazing never ceases where females are involved. They are continually subjected to ridicule that is apparently designed to test their ability to handle the pressures of a particular assignment or job task. Some have related, confidentially, that different training officers would describe sexual experiences or gruesome crime scenes, and then make assessments of them based upon their reactions. These types of incidents were often handled with little or no sensitivity."*

Another issue of importance to female and, to an increasing extent, male deputies who are single parents or undertake major responsibility for child-rearing is the extent to which the Department is understanding and flexible regarding these responsibilities. In order to be able to attract and retain these deputies, the Department should review its personnel policies to assure that they are as family-sensitive as possible. While there are inherent tensions between family responsibilities and the Department's need to staff positions around the clock, the Department should consider instituting flexible scheduling, family leaves and part-time positions in order to retain valuable, fully trained employees who would otherwise resign and be lost to the Department. The Department currently limits childbirth leave to three months and has no part-time sworn positions.

## *Discrimination Based on Sexual Orientation*

Like many institutions in our society, the LASD has been confronted with issues of prejudice and exclusion for a long time. As other sections of our report have made clear, it has not been easy for African-Americans, Hispanics and women to become fully accepted in the LASD and to rise within the organization to positions of authority. As we have traced and described conditions for each of these groups, it has become clear that progress for all has been slow. We now turn our attention to gays and lesbians and conclude that movement here has been glacial.

### **Working Environment and Recruitment**

Despite the LASD's recent efforts to improve its relationship with gays and lesbians, the LASD is a very difficult environment for gays and lesbians to work in or find employment. The Department has only two openly gay deputies among a force of about 8000 sworn officers. We understand there are closeted lesbians in the LASD also.

We were struck by the general fear of reprisal by closeted gays and lesbians. Through organizations of gay and lesbian police officers and other community organizations, we attempted to contact gay and lesbian deputies, only to learn that nearly all such officers were reluctant to talk to us because they believed that their identities would be sought by the LASD and their careers would be prejudiced. By contrast, about 50 closeted LAPD deputies were willing to speak to representatives of the Christopher Commission.

Whether these apprehensions of gay and lesbian officers in the LASD are in fact correct is impossible to state with certainty. But these fears do have at least a rational basis: Top management does not condemn intolerance and discrimination based upon sexual orientation with the same vigor and seriousness of purpose with which it attacks other injurious forms of racial, ethnic and gender discrimination. This reluctance firmly to

stamp out prejudice is evidenced by the absence of a strong statement from top management that discrimination based upon sexual orientation is unacceptable and will not be tolerated.

Top management has not shown by word or by deed that discrimination based on sexual orientation is as unacceptable as racism. Offensive comments and slurs continue to be made on the job. It was reported to us that within the last couple of years, one LASD official was overheard telling another official, after some gay men had sought information about joining the LASD, "The dumb fags haven't figured out they'll never make it past the background check." We ourselves heard a deputy say, "We must have some gay deputies; we fire a couple every year." Use of offensive terms for gays and lesbians such as "fags" and "dykes" by deputies on ridealongs was not uncommon. That these remarks were made even in our presence makes it understandable why gay deputies are unwilling to be open about their sexual orientation for fear that other members of the Department may treat them as objects of derision. The nonchalance of deputies to speak in these offensive ways leads to the inference that the LASD has not made it clear that it condemns out of hand discrimination by sexual orientation.

The perception that the LASD is unwelcoming was reinforced by media publicity of a 1988 statement by Sheriff Block that he was concerned that an openly gay employee might face open and overt harassment. Sheriff Block responded to our questions regarding this statement by saying it was not, and it is not his intent to tolerate discrimination against gays and lesbians. He said that he intends to publish a new message regarding discrimination that will make it clear that discrimination based on sexual orientation will not be permitted. We were pleased with his response. The Department must go further, however, to make the message clear that this form of prejudice and discrimination is as offensive as racism and sexism.

We spoke at length with a West Hollywood councilperson and an employee of the city's Public Safety Committee about the relationship between West Hollywood and the Sheriff's Department. Because the city of West Hollywood has a large gay and lesbian

population, the city has a strong interest in issues of discrimination on the basis of sexual orientation. Indeed, city officials face some pressure from the gay and lesbian community not to renew the city's contract with the Sheriff's Department because of its perceived inadequate response to sexual orientation issues. Although West Hollywood officials argue that the Department in general is making progress and that the West Hollywood station in particular has worked with the city to resolve issues, they felt and still feel continuing resistance by the LASD at a departmental level. See the chapter on community policing for these reported successes. West Hollywood officials report that it took a long time and a hard struggle before a non-discrimination clause regarding sexual orientation was included in its basic contract with the LASD.

West Hollywood officials also expressed frustration at the Department's reluctance to affirmatively recruit gays and lesbians as potential deputies. Asserting that it is as anomalous for there to be a lack of gay deputies in general and in West Hollywood in particular as it would be to have a lack of Spanish-speaking deputies in East Los Angeles, West Hollywood officials continue to make efforts of their own to recruit gays and lesbians for the Department. West Hollywood officials report that the Department does not officially recruit at gay and lesbian pride festivals.

Personnel in the recruiting department of the Sheriff's Department confirm that the Department makes no special efforts to recruit members of the gay and lesbian community as it does to recruit members of various racial or ethnic communities.

We asked people at all levels of the Department why the LASD attitude seems different when it comes to issues of sexual orientation discrimination than with respect to racial, ethnic or gender discrimination. The first argument generally raised by those with legal training or exposure is that discrimination based upon sexual orientation in the workplace is not subject to the heightened legal scrutiny by courts reserved for racial discrimination. We are willing to assume for purposes of argument that there may be some legal issues regarding sexual orientation discrimination that have yet to be definitively

resolved. But that, in our view is beside the point: Why should the LASD want to fall back on legalistic arguments to justify discrimination in the first place?

It cannot be that gays and lesbians perform any better or worse than others as police. Indeed, a study conducted of the San Francisco County Sheriff's Department affirmed this perception. The San Francisco County Sheriff's Department conducts targeted recruiting efforts for gays and lesbians in recognition that San Francisco has a large gay and lesbian population. Thus, it was not difficult to find statistically adequate samples of gay, lesbian and heterosexual deputies for the study.

The results of that study were presented at the 99th Convention of the American Psychological Association in August 1991. The study showed that 83% of the gay and lesbian group were rated as "suitable for hire" by psychologists for the department and that 79% of non-gay and lesbian applications were rated "suitable for hire." This difference was not statistically significant.

Subsequent review of personnel records disclosed no statistically significant difference in job performance for the heterosexual, gay and lesbian groups. Of the heterosexual group, 11% were rated "outstanding," 76% were rated as "satisfactory" and 13% were identified as having job problems. The comparable statistics for the gay and lesbian group were 15% "outstanding," 72% "satisfactory" and 13% as problematic.

We asked LASD officials why they did not actively recruit gays and lesbians by advertising in gay and lesbian publications. The response was that the Department would have to advertise either in sexually explicit publications or in publications that encourage or promote gay and lesbian activity. We frankly were puzzled. The Department does not have to advertise in *Hustler* or *Penthouse* to reach heterosexuals. It should not have to advertise in equally explicit publications to reach gays and lesbians. There are many publications and media outlets of general circulation, or those aimed at a gay or lesbian audience, which are not sexually explicit that could be easily used. The excuse was weak.

Fear of AIDS and fear that a gay male might be perceived by a partner as a "sissy"



or as unable to provide aggressive support in case of trouble also came up as reasons. When asked about the first, some deputies responded that they feared coming in contact with a gay deputy's blood or of having to perform mouth-to-mouth resuscitation. Inasmuch as the LASD already requires deputies to use rubber gloves whenever there is a risk of coming in contact with anyone's blood, be it a fellow deputy, accident victim or wounded suspect, it seemed to us that the first fear, although real and not to be dismissed, had already been addressed by the Department in a responsible way. Even if the likelihood of contracting AIDS is small, the mortality statistics are not, and it makes sense to squarely and honestly address the fears the deputies have. It is important to note in this regard that incidence of AIDS among heterosexuals is growing at a faster rate than among gay men. With respect to resuscitation, the Department uses mouth guards as a general practice no matter on whom the resuscitation is performed. Fear of AIDS does not in any way justify either exclusion of gays from the Department nor shunning of them if they join. As to the second fear, top management in the LASD conceded that it was a vestige of earlier prejudice and unfair stereotyping that would disappear over time. We agree: but it will not disappear unless deputies have their prejudices challenged with the experience of working on a daily basis beside gay and lesbian deputies just as they do African-American, female or Hispanic deputies.

We would be ignoring political and social reality if we assumed society in general was as intolerant of sexual orientation discrimination as it is of racism. Police departments are not usually the leading edge in promoting tolerance. For example, we perceived within the LASD some fear of criticism or disapproval from parts of the LASD's constituencies, if the Department was seen as promoting a gay or lesbian lifestyle by actively recruiting gays. But, the response is obvious: people want good policing; they do not really care if the person responding to them when they are helpless or in danger is African-American, Caucasian, Hispanic, Asian, female, gay or lesbian as long as the police officer is well trained and competent. There is no sound reason to overlook the gay

and lesbian community when trying to recruit good deputies. The Department does itself and the public a disservice, if it does so.

### **Background Investigations**

We received reports from members of the gay and lesbian community that the Department's hiring process, including background investigations and psychological examinations, as recently as 1989, was designed to weed out gay men who applied for positions with the Department. Today, the Department's background investigation process appears not to focus specifically on a potential hiree's sexual orientation.

In this regard, however, we do have some concern about what may be unintended biases. Recently, due to budget constraints, a small, select group of individuals was chosen for admission to the Sheriff's Academy. By way of demonstrating their pride in these recruits, LASD officials pointed out that they were able to select the most stable applicants, who were "married if possible." The equating of maturity with marriage may lead to biased results against gays and lesbians as well as men and women who, for whatever reason, have remained single.

With respect to unmarried persons, we were also advised that at least as late as February 1992, information was being sought from applicants about boyfriends or girlfriends for purposes of checking references. The application form admonishes that failure to provide complete information can result in disqualification. The potential is high for misuse of answers to such questions against gays, lesbians and people who do not have significant other people in their lives at the moment, and the questions should best not be asked.

Background investigators currently do not seek information regarding applicants' possible bias based on sexual orientation. We would urge the Department to screen applicants for such bias.

## **Training**

In 1992, the Sheriff's Training Academy instituted a new cultural sensitivity curriculum which included a class entitled "Strategies for Reducing Prejudice and Eliminating Discrimination." This class was designed to address general problems of prejudice and discrimination and then to focus on issues of race, ethnicity, gender and sexual orientation. While the Department's attempt to institute such a curriculum is admirable, this particular class was ineffective in dealing with gay and lesbian issues. The class began with a stereotyping exercise, the purpose of which was to show the Academy students that perceived stereotypes are often incorrect and that particular groups of people cannot be judged simply on their appearance. In spite of all good intentions, this particular stereotyping exercise succeeded in projecting a negative image of gay men by including the category of gay men with such other generally negative categories as "drug users," "people to be afraid of," and "dangerous people." The sexual orientation component of this class was also compromised because it was placed as the last item on the curriculum, meaning that when time ran out, sexual orientation issues were given short shrift and were not fully discussed.

On the day before their spring 1992 graduation, however, one Academy class also received a presentation put on by the West Hollywood Gay and Lesbian/Sheriff's Conference Committee in which three hours were devoted to gay and lesbian issues. We audited the class and reviewed the class members' written responses. We thought the class was worthwhile, and the class members did too. It was presented by people knowledgeable on gay and lesbian issues who could speak from direct experience and who were not afraid of dealing with tough questions from the class. The Department should expand this class to reach veteran deputies and officers who have never been exposed to the class.

We want to note that where the LASD has used the resources of the gay and lesbian

community to develop programs and policies, it has done an excellent job. An example of this kind of teamwork is a program at the Hall of Justice Jail. For the past nine years, the Sheriff's Department has had a program in which self-identified gay prisoners are segregated from the general jail population for their own protection. The success of this particular program has resulted from the participation of a representative of the gay community in a screening process designed to prevent non-gay inmates from gaining access to and harassing the gay population in the jail. The representative from the gay community not only prevents possible abuse of the screening process but also acts as an ombudsman for the gay inmates.

We note also that Sheriff Block recently met with members of the West Hollywood Gay and Lesbian/Sheriff's Conference to discuss new programs and policies. We applaud this approach to issues of sexual orientation and encourage the continuation of such dialogue. The Sheriff's Department should work closely with gay and lesbian representatives to develop other effective programs and policies.

## *Complaints*

Women and minorities report that it is still very difficult to bring complaints about racial or gender discrimination, or sexual harassment. To do so under the current system, one must file a formal complaint which is invariably made public. Filing such a complaint is widely perceived as certain to "ruin your career," to give you "a jacket as a troublemaker." The filing of such a complaint, moreover, is not always taken seriously. An African-American deputy filed a grievance against a fellow deputy who called him "Boy" while refusing to follow his appropriate order. Although a majority of witnesses present believed the remark to be racial in nature, the grievance was found to be not racial. In recognition of the reluctance of officers to file complaints, the SOP Committee recommended the creation of an ombudsman position and unit liaisons to whom such complaints can be brought

in confidence. Even if such an office is established, complaints will still be difficult to bring forward until management is fully trained in the proper handling of such complaints and is held fully accountable to respond promptly and decisively.

### *Racial and Gender Balance*

The Department currently appears to have no enforced policy to achieve greater racial and gender balance among different units. Some management efforts to address this issue appear to be only token in nature. When an executive issued a memo indicating that a particular division was attempting to recruit more minorities, the division's only African-American was never asked for suggestions, and no one he talked to had been informed of the memo. Such lack of follow-through by management sends a powerful message.

The failure to enforce efforts to achieve greater balance is particularly striking given the substantial disparities in the staffing of different units. Women deputies, who comprise 12.5% of the Department's sworn personnel, constitute less than 7% of the sworn personnel at the Antelope Valley, Carson, East Los Angeles, Industry, Lennox and Lynwood stations. Even more strikingly, there are no women among the 91 sworn personnel in the Special Enforcement Bureau.

Distribution of minorities among units is also very uneven. For example, while the ethnic make-up of the area served by the East Los Angeles Station is 94% Hispanic, only 43% of its sworn officers are Hispanic. An even greater disparity exists in the area served by the Firestone Station, where 80% of the residents are Hispanic, but only 20% of the officers are Hispanic. Similar disparities exist for African-Americans. For the Marina del Rey Station, 55% of the residents are African-American in contrast to only 19% of the officers. Many stations are disproportionately staffed by Caucasian officers. For example, while only 5% of the residents of the Lynwood Station area are Caucasian,

71% of its officers are Caucasian.

Disparities are most obvious in the highly visible and desirable positions within the Department. Among the four top aides to the Sheriff, the Undersheriff and Assistant Sheriffs, there has never been a Hispanic, and the only African-American was recently appointed. The Special Enforcement Bureau is 81.3% Caucasian, 6.6% African-American and 12.1% Hispanic. The Advanced Training Bureau is 86.0% Caucasian, only 2.3% African-American, 9.3% Hispanic and 2.3% Asian. The Arson and Explosives Detail is 85.7% Caucasian, 4.6% African-American, 4.6% Hispanic and 4.6% Pacific Islander.

These disparities may be due to a number of factors including deputy interest in the position, the need for a particular schedule and the residential patterns of deputies seeking affordable housing. However, if the Department is sincere in its efforts to implement Core Values and community-based policing, it must seriously consider whether its job selection and transfer policies should be revised to assure appropriate racial and gender diversity at each unit.

Among the policies that must be examined are job transfer policies that pose significant barriers to women and minorities. The movement of officers within the Department appears to be far too dependent upon personal connections, making such movement more difficult for women and minorities. One officer stated, "If you don't come with recommendations, you're dead in the water."

In addition, many job openings are not included on regularly circulated job openings lists. For example, many sergeant and lateral transfer positions are teletyped and posted only if the captain or other manager desires them to be. This makes word-of-mouth the primary way to find out about these openings. Captains have virtual independence in selecting deputies to transfer to their stations, and some captains limit hiring to people they already know. There is no procedure by which an unsuccessful transfer applicant is advised why he or she was not selected for an opening. A deputy who complains about not having been selected may hurt his or her career by virtue of this fact alone, depending upon the reaction

of the hiring officer.

These features of an "old-boy system" prevent desired movement by deputies without personal connections, who tend disproportionately to be women and minorities. One long-time middle manager described the attitude of many managers as "You take care of people you like, and you mess over people you don't."

## *Promotions*

Widespread internal dissatisfaction with the promotion process was indicated in the SOP Survey, in which 64% of respondents stated that the most deserving "seldom" to "rarely" are promoted. Only 14% stated that promotions are based more on merit than on inappropriate criteria. Favoritism and having the right connections were identified by officers as common means to obtain promotions.

A high-level officer stated that the evaluation of an applicant's merit is "all based on opinion," rather than objective facts, and that management believes it has the "territorial right to pick people it is comfortable with." Not surprisingly, given this reliance on criteria other than merit, minorities do not believe that they are "given the same promotional respect" as are Caucasians.

The Department needs to recognize that major messages about institutional values are communicated by promotion decisions. When the Department declines to promote an officer because his or her native language is not English, and, therefore, he or she has a distinctive style of communication, it sends a message that undermines its own efforts to enhance tolerance of diversity. One high-level manager stated that "There is a lack of consistency in promotion messages." Acceptance of the concepts of Core Values and service-oriented policing is not always rewarded in promotion decisions, nor does resistance to these new policies consistently prevent promotion. If the Department is serious about implementing Core Values internally, it must assure that every promotion decision is

consistent with those values.

### *Failure to Utilize Multi-Cultural Resources*

In our judgment, the Department is not fully utilizing its rich multi-cultural human resources. For example, the Department has not utilized its minority law enforcement officer associations and has not communicated the message that such groups serve an important function. Peer acceptance of these groups is not always the case. A sergeant told one such group that it could not meet again in a Departmental room open to community meetings. Officers active in these associations are asked far too frequently by other officers why there is a need for such an organization. One typical question is, "Isn't that the same as if we formed a Ku Klux Klan?"

To the contrary, these groups serve a vital peer support function and are deeply involved in volunteer service activities in communities that the Department serves. They embody the ideals of Core Values and community-oriented policing and should be encouraged.

Many minority officers reported an eagerness to assist in the Department's cultural awareness work, and several reported with disappointment that they had volunteered to design and present training programs, but were not selected. These officers have important knowledge, experience and insights regarding effective and sensitive community-based policing. Many of them grew up in the neighborhoods served by the Department.

Their cultural knowledge and communication skills could be invaluable in defusing tensions on a street corner or in a jail cell. Their knowledge of neighborhoods can enhance officer safety, as in the instance of a minority sergeant ordering a deputy to call off a chase that was taking him, unknowingly, into a gang ambush area.

Many minority officers have a broad historical and societal perspective that is most useful in the Department's efforts to increase the sophistication and effectiveness of its



community-policing efforts. As one deputy put it, "I am very interested in how this job fits into the total society." For example, a number of officers expressed interest in making certain that the Departmental response to the recent civil unrest takes into consideration the full historical and political context of those events. They expressed grave concern regarding growing societal rifts and are eager to offer their unique skills and perspectives as minority law enforcement officers to address serious community problems. Many of them have first-hand experience, either professionally or personally, in difficult issues with which the Department is grappling. The Department appears to have made little use of these resources. If it is serious about community-based policing, it must find ways to utilize these talents in all aspects of Departmental work and particularly in Core Values, Service-Oriented Policing and Cultural Awareness activities.

### *Outside Resources*

While the Department is currently pursuing a number of new initiatives, there appears to be substantial institutional reluctance to use outside experts. Notable exceptions occurred in the development of the Reducing Prejudice and Eliminating Discrimination class and the class on Gay and Lesbian Issues, in which highly skilled outside community experts were deeply involved.

In other areas, however, there has been little utilization of this talent pool. For example, in developing the Cultural Awareness class, although there was some advice from the Cultural Awareness Committee, there did not appear to be any serious utilization of experts. The Department appears to have made very little use of outside experts in its Core Values work, its service-oriented policing activities.

While budget problems have been cited as the reason for failure to turn to experts, it would seem that a lack of interest in or knowledge of community resources, rooted in institutional insularity, is the more fundamental cause.

The Department takes pride in being a leader on certain law enforcement issues, such as the development of training standards adopted by POST. It is frequently contacted by other departments that seek to model their policies after those of the LASD. Unfortunately, this Departmental pride is too often accompanied by a virtual lack of interest in what other law enforcement agencies, outside experts or community groups have to offer the Department.

For an institution of its size, the Department makes virtually no use of academic or law enforcement experts. Nor does it have any policy to encourage its personnel, even at the higher levels, to spend time at other institutions. Those rare instances we heard about were initiated by an interested individual rather than by any Departmental policy. For example, we heard of only one officer who has spent time at other government agencies, where she developed knowledge and perspective that are invaluable to the Department.

At his own request, an Asian officer participated in a high-level monthly Asian round-table, which served valuable recruitment and service-oriented policing purposes. When he changed job assignments, he was not replaced. This must call into question the Department's interest in that community. Although other officers participate on outside committee work, that work appears to be limited to local interagency committees and state POST committees.

In order to obtain state-of-the-art thinking on all phases of law enforcement work, the Department must make substantially greater utilization of outside resources including academic and law enforcement experts, leading law enforcement agencies nationwide and local community resources.

### *“Contempt of Cop”*

The lawlessness at the Lynwood Station as discussed in the next chapter illustrates what can happen when deputies are inadequately supervised. Although we were not

**Excerpts  
From Interview**

*with an Emergency Physician  
at County USC General Hospital  
February 5, 1992*

"It was an approximately 40 year old Hispanic male who was waiting to be treated, and he was waiting a long time and he was somewhat verbal about the wait . . . After about an hour or so he began to fake a seizure, which is a common occurrence with us there. I was able to tell that it wasn't a real seizure because I had seen this happen many times, but from what I saw the patient slid from his seat, fell on the floor, onto his stomach and began flailing his limbs. He didn't appear to pose any threat to any of the other patients on the jail ward nor did he at any time appear to pose a threat to any of the staff . . . Five sheriffs descended upon him and one of them on each limb. The patient was lying on his stomach . . . in the prone position. He was clearly completely restrained by the four sheriffs on his limbs and the fifth sheriff, I guess he was a deputy, came along and grabbed the back of his head, grabbed him by the hair and he began repeatedly slamming his face and forehead onto the tile floor with what I considered such excessive force that I was concerned about the safety ◀

convinced that various Lynwood deputies had formed white supremacist cells, we did believe accounts by residents of the area of vigilante behavior by Lynwood deputies.

Given their contempt of any supervisors who tried to restrain them, the depredations of the Lynwood clique were extremely difficult to contain.

We understand that as many as 16 of these deputies have been transferred out of Lynwood. We agree that it was absolutely necessary to break up the group. We only hope that any station commander who inherits these deputies makes certain that they are not permitted to spread their former attitudes and conduct throughout the Department. Firsthand accounts of friction between deputies and Lynwood transferees at the new stations have already come to our attention. In one recent instance, a fistfight broke out after a deputy from a "slow" station criticized a former Lynwood training officer's harsh treatment of a trainee at the new station.

In our later discussion of the GET team, we allude to conduct that at best can be characterized as borderline: rousting of alleged gang members without substantial cause, possibly illegal searches, and unnecessary confrontations. Some within the Department believe that the GET team can use highly suspect tactics with impunity because of the unsympathetic nature of the "gangbangers" against whom the tactics are directed. Among the most disturbing behavior we came across in our investigation involved GET, and perhaps the most troubling of all is what occurred in Ramona Gardens in August of 1991.

A GET car pursued a Monte Carlo car suspected of containing

gang members out of County territory into a housing project in the City of Los Angeles late on a summer night. It lost the car. Instead of leaving the area which was outside LASD territory, the GET car continued to prowl Ramona Gardens. As the car moved slowly through the streets of the project, the deputies came across a group of 8 to 12 Hispanic youths congregated near a small wall. The driver stopped the car and shined the side spotlight attached to the car on the group for about 15 seconds. Noting no particular reaction by the group, the deputies continued slowly driving down the street. About 20 to 30 feet past the group, the car was hit near the trunk with a bottle. The deputy driving the car backed up and debated with his partner whether they should get out of the car. The more experienced of the two deputies counseled leaving the scene. The younger deputy, recently transferred from Lynwood, decided otherwise, got out of the car and approached the group near the wall. The deputy confronted a youth, known as "Crow," who was flashing a gang sign. By his own account, he asked, "what's your problem?" Crow-replied, "I ain't got no problem, this is Big Hazard [the name of a gang]. I ain't got no problem." The deputy then repeated, "What's your problem?"

The testimony is in conflict about who shoved whom first, but the gist of it is that the confrontation turned physical, others joined the group to see what was happening, the group began to move, the deputy drew his gun to restrain them, someone hit the deputy's partner and he fell to the ground, and the deputy fired three shots, killing a 19-year-old Hispanic named Arturo "Smokey" Jimenez.

The shooting was found by the LASD to be within policy and

of the patient. He did this for about 30 to 60 seconds. I went over to him and I said something to the deputy to the effect that would he please stop it, I was concerned that he was going to hurt this patient, and I was told, "Doctor, get out of here, this is none of your business." (Describing an event in 1988 or 1989).

"This patient was an in-patient. He was in a bed in one of the back rows. He was in four point leather restraints. In other words, all his extremities. He had an intra-venous line in place . . . . The nurse was reportedly adjusting his I.V. and inadvertently caused him some pain and the patient called her a bitch quite loudly, loud enough to be heard down the hallway. One of the deputies hearing this and being protective of the medical staff ran down the hallway and reportedly punched the patient very hard to the face. The patient sustained a facial fracture from this injury. . . . I can't understand how a patient that has all four extremities restrained could present enough of a threat to anyone that he should be assaulted in this manner." (Describing an incident in 1988 or 1989).

"Well I know he was in custody because he was on the 13th floor. I don't know if he was from the jail ward or recently arrested. ←

She [referring to another physician] claims that one of the deputies in an attempt to restrain the patient along with the others, placed some pajamas over the patient's face, over his mouth and nose for a prolonged period of time, and actually asphyxiated the patient. In other words, he stopped breathing. She claims that his heart stopped beating, that he lost a pulse, lost his pulse, and cardiopulmonary resuscitation was begun. Fortunately, she claims that resuscitation measures were taken in enough time to save the patient's life, because he apparently did survive."

"But this is kind of my experience, as well, that on a frequent basis some of the sheriffs seemed to be a little bit sadistic and that when we have to perform painful procedures that they would find it amusing when the patient screamed out in pain, I mean, I'm certainly not trying to say that all of them did that, it was a very small minority, but there were a few that would do this." (Describing another incident)

■

a grand jury declined to indict the deputy who killed Mr. Jimenez. Although the Internal Affairs investigation of the incident was nearly flawless and supported a case for substantial discipline, the Department decided to impose no discipline at all.

What set of attitudes and assumptions led the deputies into Ramona Gardens and caused them to prowl around looking for the car they had lost? What impelled one of them to get out of the car to confront the group against the wall? Who taught them, or failed to teach them, about tactics, strategy, good sense and keeping things in proportion? In hindsight, the conduct was reckless and senseless.

Why did the deputies have to pursue the car outside of their own territory? Both deputies conceded that they had no reason to believe the Monte Carlo was stolen or otherwise connected to criminal conduct. Why didn't they call the LAPD to pick up the pursuit? What did they think was afoot that justified continuing the hunt? Why after they lost the car did they stay in Ramona Gardens? Why did one deputy get out of the car? Was he powerless to stop himself from taking the fatal step of confronting the group, which was not connected to the lost car, or even clearly connected to the bottle that was thrown? What was the deputy trying to prove?

The answer, we speculate, is that this incident is the result of the deputy's compulsion to prove that he could not be "fronted off" or caused to lose face, or to permit any test of his ability to impose control. When he left the car to approach the group, there was insufficient reason to risk a confrontation. At worst, two deputies had lost a car they wanted to stop and a bottle had been thrown at their patrol car. We speculate that the frustration of losing the car, combined

with the taunt from the bottle (which was probably witnessed or even possibly thrown by the group against the wall), was so intolerable that the deputy felt compelled to humiliate someone to dispel the personal affront that the deputy read into the events.

This is not a story of a bungled arrest. It is a story of deficient training and flawed judgment, and a deputy who was not suited for a GET assignment. This is not an attitude limited to Lynwood or GET. It is the same attitude that caused another deputy to fly into a rage and crush the testicle of a man who had the temerity to call the deputy "fat" and suggest that he "get a real job," an incident that we discuss in the Litigation chapter of the Report. It is the same attitude that caused a sergeant to order deputies to spray Mace on an inmate who had the audacity not to face the sergeant when spoken to. As a highly-placed LASD officer said, **"Anger, not fear, is the number one cause of excessive force. It is rage at defiance of authority."**

This is the worst aspect of police culture, where the worst crime of all is "contempt of cop:" the deputy cannot let pass the slightest challenge or failure to immediately comply. It is here that excessive force starts and needs to be stopped.

Our chapter on community policing suggests ways in which this culture can be changed. What Ramona Gardens represents is a lethal version of "I'm going to show you who's Boss around here." Certainly in police work there are occasions when it is entirely proper to establish control. But when that becomes the all-encompassing end and not the narrow means to a particular law enforcement result, it is unacceptable.

### *Recommendations:*

- 1. The Department must vigorously enforce its anti-hazing policy, anti-discrimination policy and sexual harassment policy, and hold all managers accountable for such enforcement.**

2. In order to make Departmental expectations clear, the Department must hold training for all sworn personnel in its anti-hazing, anti-discrimination and sexual harassment policies.

3. The Department must train all managers to confront all forms of discrimination and to articulate and enforce the bounds of acceptable conduct.

4. The Department should conduct pre-employment screening of applicants for racial gender and sexual orientation bias.

5. The Sheriff's Department should create an atmosphere within the Department where sexual orientation is as irrelevant to the workplace as race, ethnicity or gender.

6. The Department should condemn and impose discipline for discrimination based on sexual orientation in the same way and to the same degree it purports to condemn racism, sexism or bias based on ethnicity. It should not tolerate homophobic slurs and remarks.

7. The Sheriff's Department should quickly release publicly the contemplated anti-discrimination statement that includes "sexual orientation." This statement must be applicable to all areas in which the Department functions, including recruitment, hiring and internal promotion decisions.

8. The Sheriff's Department should do targeted recruiting of gays and lesbians as does the San Francisco County Sheriff's Department.

9. The Sheriff's Department needs to continue its efforts to incorporate gay and lesbian issues into its cultural awareness sensitivity program for the Sheriff's Academy. We recommend that the Sheriff's Department use the resources available to them from the gay and lesbian community in order to develop an effective curriculum.

10. The Department also needs to institute similar classes for veteran members of the Department, including supervisors and other officers.

The West Hollywood Gay and Lesbian/Sheriff's Conference Committee has developed such a program. The Los Angeles Gay & Lesbian Police Advisory Task Force already provides such programs on a station-by-station basis within the Los Angeles Police Department and other organizations. The Sheriff's Department should institute the same program, or a similar program, in the Los Angeles Sheriff's Department.

11. The Department should develop Departmental policy and goals to increase racial and gender diversity in all Department units, and hold all managers accountable for their implementation.

12. The Department must assure that minority, female, gay and lesbian personnel are fully involved in all Departmental activities, and particularly in Core Values, service-oriented policing and cultural awareness work.

13. All job openings must be published and widely disseminated on a regular basis.

14. A system should be instituted to advise unsuccessful transfer applicants why they were not selected.

15. The Department should consider instituting flexible schedule, family leave and part-time work policies.

16. The Department must budget a substantial sum to enable it greatly to increase its utilization of outside resources including experts, leading law enforcement agencies and community groups and individuals. These resources should be utilized to improve recruitment and to design and implement all initiatives related to community-based policing, cultural awareness and reduction of excessive force.





## 24 . Deputy Gangs

We have examined the controversial allegation that racist deputy gangs exist within the LASD, allegedly including, among others, the “Vikings” at the Lynwood Station. These allegations merited investigation because they are of a profoundly serious nature, touching the fundamental fitness of the LASD to perform its mission.

After reviewing the records of certain civil suits against the Department, including findings by a federal district judge giving credence to allegations concerning the existence of such gangs, and after a series of interviews with persons who hold a wide range of views on the issue, we conclude that, although there is some evidence suggestive of the existence of deputy gangs, such evidence is, at most, inconclusive. Nevertheless, it appears that some deputies at the Department’s Lynwood Station associate with the “Viking” symbol, and appear at least in times past to have engaged in behavior that is brutal and intolerable and is typically associated with street gangs. Such conduct would, at a minimum, erode the community’s trust in the LASD, which is essential for the Department to perform its mission.

To investigate these allegations, we first examined the record in the case of *Thomas v. County of Los Angeles*, which is before U.S. District Court Judge Terry J. Hatter. Additionally, we reviewed other case files concerning deputy misconduct and interviewed members of the Department, members of the community, lawyers serving as plaintiffs’ counsel in suits against the Department, former deputies and others.

### *Record in Thomas and ALADS Lawsuits*

The *Thomas* plaintiffs allege that deputies at the Lynwood Station engaged in numerous acts of excessive force, including shootings, beatings and the destruction of property. Although the *Thomas* suit does not focus specifically upon deputy gangs, the plaintiffs point to the unchecked and abusive activities of deputies — including alleged Vikings — to demonstrate the failure of Department supervisors to maintain control over their deputies.

In a preliminary injunction hearing before Judge Hatter, the plaintiffs won an order instructing the LASD to follow its own operational guidelines. Regarding the Vikings,

Judge Hatter found that "[m]any of the incidents which brought about this motion involved a group of Lynwood area deputies who are members of a neo-nazi, white supremacist gang — the Vikings — which exists with the knowledge of departmental policy makers." *Thomas*, No. CV 90-5217 TJH (Ex), para. 7 (C.D. Cal. Oct. 8, 1991) (Findings of Fact and Conclusions of Law).

Other civil suits have also involved allegations of gang-like behavior by deputies. A typical piece of evidence is the fact that certain deputies wear tattoos, sometimes accompanied by language that could conceivably be interpreted as being ethnically derogatory (e.g., "Chango Fighter").

Several plaintiffs' lawyers in *Thomas* stated that deputy declarations in *Association for Los Angeles Deputy Sheriffs v. County of Los Angeles (ALADS)* constituted the strongest evidence demonstrating the Vikings' activities at Lynwood Station. *ALADS* arose from a transfer of four deputies from Lynwood Station. These deputies charged that they were not advised of the reasons for their transfers, and that the circumstances under which they were transferred had irreparably damaged their careers.

In support of their case, the *ALADS* plaintiffs offered declarations by themselves and other deputies that describe long-standing rumors and suspicions that the Vikings are a racist, white supremacist group. The declarations state that in April or June 1990, the then-captain of the Lynwood Station called a meeting attended by many deputies. At this meeting, he allegedly called the Vikings a malignant and disruptive element within the station whose members had engaged in off-duty criminal activity.

The declarations further claim that in November 1990, there were rumors within the Lynwood Station that the Long Beach Press-Telegram newspaper was investigating reports of a cult-like deputy gang at the Lynwood Station that held white supremacist beliefs. At a meeting arranged by certain deputies to discuss these rumors, the captain again allegedly stated that the Vikings were a disruptive force that engaged in criminal activity and interfered with the operations of the Department.

Finally, the *ALADS* declarations state that shortly after the publication of newspaper articles concerning the existence of the Vikings, four deputies were notified of their imminent transfers from the Lynwood Station. The declarants claimed that the circumstances of the transfers would severely damage their careers, tainting them with a reputation of being racist and insensitive to the needs of minority members of the community. At the same time, the deputy declarants, who alleged that they were accused of being racists, did not admit to harboring racist beliefs, nor did they accuse others of being white supremacists. To the contrary, the declarants state that the four plaintiff deputies were exemplary performers and that charges maligning them in any manner were groundless.

The *ALADS* declarations refer to several newspaper articles published by the Press-Telegram and other newspapers in December 1990, which we have reviewed. These articles were offered as exhibits in the *ALADS* suit. The articles alleged that a deputy gang at the Lynwood Station known as the Vikings had taken on the characteristics of a street gang. The articles described how Viking deputies exchanged gang-style hand signs, used gang-like slang speech when addressing street gang members and alleged that these deputies sprayed Viking graffiti ("LVS25," for example, which allegedly denotes Lynwood Viking Station 25) in the Lynwood community. The articles quoted the station's then-captain as describing the Vikings as a disruptive disciplinary problem, whose members harassed and intimidated supervisors and openly engaged in jargon and hand signals associated with street gangs.

### *Interview with the Captain*

The former captain of Lynwood served as the commander from June 1989 until May 1992. He told us that he regarded the Viking symbol as a "childish" distraction from the professional responsibilities of the Lynwood deputies, and eventually eliminated the Viking emblem as Lynwood's symbol when most African-American deputies and some Hispanic

deputies objected to the symbol's Aryan connotation. He agreed with them that the Viking was an inappropriate symbol for a Sheriff's station in a multiethnic community such as Lynwood.

The captain acknowledged that a group of deputies at the Lynwood Station had affiliated especially closely with the Viking symbol. He further stated that this "inner group" of Vikings had in the past engaged in misbehavior, such as painting Viking graffiti over street gang graffiti, harassing supervisors and damaging their personal property. He also acknowledged that some deputies flashed Viking hand signals in the presence of street gang members, although such signals might have been designed to establish a rapport with gang members.

The captain said that he held meetings with deputies to discuss the demise of the Viking symbol. Some deputies resented this change, but the captain explained that the historical significance of Vikings — as Aryan warriors who raped and pillaged — was inappropriate for law enforcement officials. Moreover, he believed that the Vikings constituted an internal disciplinary problem for the Lynwood Station, not a white supremacist threat to the Lynwood community. He found that the Vikings were not a racially motivated group, declaring that he had never seen anything racial about the Vikings in his three years at the station.

We were impressed by the captain's candor and demeanor. Although he may have understated the problems at Lynwood, we found him to be credible and to have done a good job in difficult circumstances. We were particularly impressed by his willingness to break up deputy cliques and transfer the asserted troublemakers elsewhere, even over the objections of the deputy's union. This willingness to do what is right and in the interests of the entire department — even at the risk of incurring the wrath of the union — is commendable.

We also talked to this captain's successor whom we also found very impressive and who is highly regarded in the LASD. Her analysis of the problems at Lynwood were con-

sistent with her predecessor's, and we are hopeful that she will continue to eradicate the problems at the station.

### *Anietra Haley Tapes*

While interviewing an attorney for the plaintiffs in the *Thomas* case, we discussed allegations of Viking complicity in the drive-by shooting death of Lloyd Polk on December 7, 1990. Obviously, such allegations are shocking and controversial. They are also, at this point, unsubstantiated.

Polk was a plaintiff in a case against the Department. Anietra Haley, an employee at the Lynwood Station at the time of Polk's shooting, claimed to have overheard a conversation in which Lynwood deputies plotted to kill Polk.

Haley later recanted her allegation against the deputies and pleaded guilty in federal court to knowingly and willfully making false statements to the FBI. The United States Attorney's office is investigating allegations that Haley's falsehoods were suborned by an investigator for plaintiffs in the *Thomas* case.

In addition to discussing the *Thomas* case, the attorney gave us examples of inflammatory racist literature that had been found at the Lynwood Station. Some of these materials were presented as exhibits in the *Thomas* and other cases. This literature included a virulently racist joke targeted at African-Americans and a map of the Lynwood area configured in the shape of the African continent. We believe that this literature is at least several years old, however.

### *Interview with Former Lynwood Station Deputy*

We also interviewed a former Lynwood Station deputy who insisted on remaining anonymous. Without offering details, this individual claimed that the Vikings were a racist group that terrorized the Lynwood minority population, and that supervisors at Lynwood

Station purposely ignored the Vikings' activities. This witness promised to talk with us again, but never did so.

We also spoke with an individual who had retired from the Department in 1990. He had a number of negative things to say about the Department, though none of them confirmed the allegation of racist gangs. According to him, groups such as the Red Devils from East Los Angeles developed in the LASD because of group pressure. In other words, a group of individuals developed an attitude of "us against the world." He believes such groups began with good intentions, but that deputies in such groups became carried away and their conduct deteriorated. He has seen members of such groups drink and become violent. He himself was a Red Devil in East Los Angeles in the early 1970's. He believes that such groups are not racist, nor are they made up only of whites. Rather, such groups consist of more aggressive deputies, who take on an identity as "hard chargers."

### *Sheriff's Bulletin No. 396*

We reviewed Sheriff's Bulletin No. 396, dated December 11, 1990, which is entitled "Professionalism." In the Bulletin, Sheriff Block notes the media focus on the adoption of gang-like mannerisms by deputies. Although he does not admit that any of the reports are true, Block condemns gang-style behavior by deputies as damaging to the Department's image and, consequently, its ability to perform its job. "I consider any behavior which imitates the conduct of social predators in our community unprofessional and counterproductive to our mission. I believe that our appearances and conduct are indicative of our overall performance as law enforcement officers."

Based upon the foregoing, we have reached certain conclusions. We have found little evidence concerning the activities of deputy gangs other than the Vikings, and thus focus our discussion on the Vikings group at the Lynwood Station.

The evidence does not conclusively demonstrate the existence of racist deputy gangs. The newspaper articles, the *ALADS* declarations, the captain's comments, and much of the other evidence that we examined indicates that an inner group of deputies with peculiar and unique hard attitudes likely did exist at the Lynwood Station. Those attitudes manifested themselves in the form of excessive force and disciplinary problems between deputies and their supervisors. The spirit of this group was symbolized by the Viking emblem; and was most clearly expressed by the sporting of tattoos and their use at one time of gang-style hand signs, jargon and graffiti.

Sources within the LASD said that such cliques tend to be formed around "hard chargers" who are assigned to the early morning and late night shifts. It is said that those who prefer to work from about midnight to 8 a.m. are a different breed who promote and perpetuate an "Us vs. Them" and a "kick ass and take names" super-macho culture at various stations.

These cliques are found particularly at stations in areas heavily populated by minorities — the so-called "ghetto" stations — and deputies at those stations recruit persons similar in attitude to themselves from among the deputies nearing the end of their custody rotation.

Several sources said that deputies at those stations test and size-up recruits during their field training and take steps to assure that only those deputies who replicate their hard attitudes are eventually assigned on a long-time basis to those stations. It is rumored that the field training officers abet and perpetuate these abuses and in that connection, we refer to the chapter on Patrol Assignment and Training.

Members of the Department are candid in discussing the problems of early morning cliques: As one sergeant put it, "I agree with rotating problem deputies on occasion. But you're always going to have a problem with early morning cliques. They're a perennial problem because the only people they come across at 3 a.m. are bad guys. And let's face it, the bad guys expect to be treated poorly by the police. Also, it can get real slow out there and the deputies will start horsing around."



Bad habits that develop during tours of duty on early morning shifts are not easily cured by putting the deputies to work during the daytime. As one sergeant put it, "moving the guy doesn't make him change. If you've got a guy on 'earlies' who's frying hands [keeping the detainee's hands on the hot part of the car hood] or having people sit on the curb, changing him to days isn't going to break him of the habit." It can make things worse, in the view of some, because the offensive practices are perpetuated during the daytime on people indiscriminately: As one officer related, "we've got a deputy . . . who uses sit-downs and prone-outs indiscriminately because maybe he had to do it on Earlies. The other day he made a 47-year old black housewife whom he stopped for a traffic violation sit down on the curb across the street from MLK Hospital, where I believe she worked. Now that's a disaster. That's how you get people crying racism."

We were told by at least one reliable firsthand observer that the members of a former early morning clique at the Lynwood station had been trained by field training officers who were nothing more than "thugs." The problems at Lynwood had festered for a long time before the current captain's predecessor was placed at the station. As one seasoned observer from within the LASD put it, "The rough station used to be Firestone. When they opened Lynwood, Firestone transferred all its 'heavies' to Lynwood. Everyone else caught on. Lynwood started out like a penal colony — like Australia."

The last unruly Lynwood early morning clique, now apparently no longer in existence, is reported to have challenged all authority, and harassed and intimidated any sergeants or lieutenants who stood in their way; going so far, we have been told, as to command field sergeants to leave the scene of arrests, to slash the tires of supervisors they did not like, to disregard orders not to roam freely outside their patrol areas into the city of Los Angeles and to smear excrement and other noxious substances over the engines of supervisors' cars. We cannot vouch for the accuracy of all the variants on these stories, and some do have an apocryphal ring to them, but the fact that these stories are abroad and frequently repeated erodes respect for the LASD and its supervisors. We should also

note that stories about various stations become compressed: In discussing the *Thomas* case, one officer noted that "everyone has taken everything that has happened at Lynwood for the past 10 years and bunched it all together as if it happened only a couple of months ago. It's not fair to us who weren't around in '81 or '83."

Nevertheless, whether or not the spirit exhibited by the Vikings is racist in nature is less clear. The racist maps and other literature found at the Lynwood Station are dated and do not prove anything regarding the more recent state of affairs.

Further, the other evidence describing the Vikings as racist is largely second and third-hand, anecdotal, and uncorroborated. As an example, the declarations in the *ALADS* case, deemed by the *Thomas* plaintiffs' attorneys to be the most convincing proof of the Vikings' racist nature, merely allude to rumors that the Vikings are inspired by race hatred. These rumors certainly do not constitute convincing evidence of racist gangs within the Department.

Haley's allegations that Viking deputies conspired to kill Polk because he had the temerity to bring a lawsuit against the Department are dramatic, but her recantation and guilty plea obviously call her credibility into question.

In sum, while there may be some support for the allegations that a racist deputy gang existed at Lynwood, there is no persuasive evidence to date.

There is no doubt, however, that certain deputies' resort to gang mannerisms feeds a public perception that racist deputy cliques may exist within the Department.

As Sheriff Block himself declares, the use by deputies of gang hand signs, tattoos and graffiti are highly inappropriate and unprofessional and cannot be tolerated. Rather than establishing rapport with the community, the adoption of gang-like traits can lead community residents to regard the deputies as simply another menacing street gang. The result may be more lawless behavior.

In similar fashion, the use of gang terminology by deputies damages the professional image of the Department. Hence, deputies should take care to exercise their First

Amendment rights within the context of Department professionalism. As the former captain stated, deputies should not need symbols, names, and language to bind themselves together — they already have the uniform and the badge. We note in conclusion that 16 deputies have been transferred out of Lynwood.

*Recommendations:*

**The issue of deputy gangs is inflammatory and should not be allowed to fester.**

**Therefore, we recommend that the LASD take aggressive steps to eradicate offensive station mascots and conduct an immediate, thorough Internal Affairs investigation to identify, root out, and punish severely any lingering gang-like behavior by its deputies. Unit commanders should aggressively break up deputy groups which manifest any of the conduct which signifies gang-related activity.**





## 25 . A c c o u n t a b i l i t y   W i t h i n   T h e D e p a r t m e n t

Our investigation examined in detail whether the top management of the LASD appropriately delegates power and authority to middle managers, adequately tracks their performance, and reacts with a swift supervisory response to substandard performance, particularly by captains at the station level. Recent efforts by the Department gave commanders in the various stations the authority to handle disciplinary problems that formerly were reserved for more senior managers. There is also some healthy experimentation taking place, particularly at Temple City Station under Captain Bob Mirabella and within Field Region III under former Commander (now Chief) Lee Baca, Chiefs Ray Morris and Larry Anderson, where the captains have been asked to set up force tracking systems and to fashion community policing projects.

On the other hand, we found that the delegation of authority to captains and others is being made without clear standards of concomitant accountability and without detailed definition of their duties as managers in the LASD.

These are not easy things to do, and we are cognizant of the difficulties facing captains. One fundamental supervisory problem is that the police officer on the street cannot be over-seen in the performance of his or her duties. The authors of a joint Harvard University-Department of Justice study suggest: “[g]iven the conditions of police activity . . . officers work alone, events occur in locations and at times that make them unavailable for direct oversight, the problems citizens present to police require novel solutions . . . different forms of supervision are required. These forms of supervision are more akin to coaching than directing. They include teaching, reviewing, considering alternatives, training, and other similar techniques.”<sup>1</sup>

A related problem is the difficulty faced by supervisory personnel in assimilating and evaluating all of the activity that takes place at a police station. The station is open 24 hours a day. There are several shifts during the day and night with different deputies, sergeants and lieutenants on duty. The captain is typically at the station during normal daytime working hours . He or she necessarily has to depend on others to find out what

goes on at 3 a.m. Thus, it is exceedingly difficult for any one manager to really know what is going on in and around a particular station 24 hours a day.

Another factor aggravating supervisory problems is the high turnover of the corps of deputies at any station at a given time. Turnover is high for many reasons: a deputy may want to move from station to station to be nearer his or her home; a deputy may move in order to advance to a better or more interesting position. Some stations have more than 25% turnover every year. Sergeants and lieutenants are transferred with some regularity. Captains change assignments every few years.

Moreover, when a deputy transfers from one station to another, there is no formal mechanism for the transfer of that deputy's history beyond the bland notations in the employee's personnel file. As demonstrated elsewhere in this report, personnel evaluations are hardly models of candor and precision. The only way for management at a station to find out whether it has been sent a "stand up deputy" or a problem deputy is to call the watch commanders at the prior station, grill them and do a follow-up check with Internal Affairs.

In the Sheriff's Department today, there is no clearly defined way to measure and evaluate what the captains are doing and how well or poorly they are doing it. There are few goals and timetables. We would like to see each captain sit down with his or her area commander and prepare a written annual negotiated plan for the station setting forth specific goals, timetables for attaining them and ways to measure progress. It should include a specific plan for reducing force, reducing citizen complaints, handling claims, mediating resolvable disputes between residents and department personnel, interacting with the community, implementing community-based policing and imposing discipline. Annual performance review of captains should include specific review of whether the plan was met. There should be incentives for captains to reach these goals and disincentives if they do not.

Similarly, commanders should sit down annually with their chiefs and prepare a plan

to assure that the captains under their charge meet the targets for reducing force and instituting community-based policing. The performance review of commanders should contain a substantial component for evaluating whether their captains have met their goals.

Chiefs should sit down with the very top management and engage in a similar exercise.

In this regard, we also recommend that the Sheriff, the Undersheriff, and the two assistant sheriffs hold substantive working meetings at least once every quarter with all captains. We do not believe that there is adequate direct communication between the top officials of the Department and the captains who, as noted earlier, have been empowered to run their own stations as they see fit in many key respects.

The captains in general seemed open to experimentation, willing to implement community policing, anxious to institute force tracking and critical of the stodginess of top management. As one captain told us, "You've got to shake up the old boys at the top." Another captain put it this way, "The top department executives need to look at tomorrow. They're preoccupied with yesterday." Top management should meet on a regular basis with the captains.

The Department should augment the setting of targets and timetables with regular and consistent programs for proactive internal auditing, especially of community satisfaction:

"One form of vigilance is auditing. An analogy is found in a financial audit of a business. It is conceded that a financial audit cannot be universal; indeed, attempts to audit everything may result in auditing nothing. Audits, instead, sample a representative number of transactions (events) from the relevant universe. There is nothing to prevent police from adopting similar schemes."<sup>2</sup>

Auditing programs can run the gamut from sting operations to test for possible corruption and compliance with policies to an in-depth review "of a given sample of arrests by interviewing witnesses, defendants, and other interested parties . . . . Another example is found in departments that routinely send postcards to a sample of 'customers' to determine how satisfied they were with police service. Other departments routinely monitor samples



of citizens complaints to determine whether they are being properly handled.”<sup>3</sup>

We rode along with the Sheriff's Gang Enforcement Team or GET and observed conduct and have heard reports of other conduct that was at best borderline: rousting of asserted gang members with thin cause; questionable pat downs of asserted gang members and searches of their vehicles; petty and not so petty harassment of asserted gang members. The GET team is widely thought of within the LASD as a collection of loose cannons, and supervision of it at least in times past apparently is viewed as a near utter failure.

GET operates as a highly independent group. The deputies are assigned to particular stations, but they are not under the direct supervision of the captain of the station to which they are assigned. Rather, they report to the captain of the Safe Streets Bureau. They are freed from the asserted tyranny of responding to radio calls and are permitted to roam the streets virtually at will to deal with gang members. Unlike many other patrol deputies, the GET deputies ride two to a car.

Being assigned to GET is highly coveted. It seems that assignment to GET was more like a fraternity rush than a considered decision:

We believe that the imbalance between delegation of authority to captains and their concomitant accountability is exacerbated by the lack of clear performance standards, let alone standards which incorporate qualitative evaluation of force reduction, complaint reduction and community policing skills. Performance evaluations for all managers are conducted using the same form, rather than on forms tailored to the particular and differing responsibilities of various jobs. Expectations in the areas of force reduction and community policing have not been clearly articulated and translated into performance evaluation forms.

There is a widespread perception in the Department that officers at the level of captain and above are almost never disciplined. Until a few years ago, it appears that it simply did not happen. People within the Sheriff's Department joke about "Get in trouble, get promoted." Others point out that one who has performed poorly in an assignment as a captain will simply be transferred to another assignment. As one sergeant put it: "X really goofed up as captain of --- so they put him in the penalty box by transferring him to---."

The perception that discipline is reserved nearly exclusively for deputies and the occasional sergeant or lieutenant is borne out by noting that no one can cite an instance of a captain being demoted, and that the only discipline any one can recall is a recent instance where a captain received a 15-day suspension.

The discussion earlier in our report about asserted deputy gangs and cliques of overly aggressive deputies at some stations raises

serious questions about supervision and accountability of managers. The accompanying sidebar describes similar supervisory problems in the Gang Enforcement Team (GET).

The deputies' union, ALADS, argues with great force and with substantial justification that deputies should not be made the scapegoats for all force-related abuses. One must look also at failures of training and supervision. Although we believe that it is inappropriate to shift one whit of blame away from the individual deputy who commits an inexcusable act, we also believe equally strongly that any investigation of that wrongdoing by the Department must include examination of concomitant failures of supervision and training.

If a group of deputies on early mornings at a particular station are using inappropriate force, the inquiry should not stop with identifying and disciplining them. Who was the watch commander and who were the field sergeants? Who were the lieutenants? What did they do or fail to do to learn of the problem and to take action to stop it? If they did not have the basic information, why not? If they had the information, why did they not do something or take it to the captain? If the captain knew or should have known, why isn't he the subject of an administrative investigation?

We are not suggesting that every force investigation must turn into an Inquisition followed by a Reign of Terror. Nor do we mean to imply that the supervisory personnel at a station can reasonably be expected to know every bit of wrongdoing that may take place.

On the other hand, there should have been strong discipline about what was allowed to take root and grow at places like Lynwood and

**One knowledgeable member of the LASD said, "they would choose who would get on the team by asking GET deputies whether deputy 'So-and-So' was a 'good guy.' So they were choosing their buddies. What you end up with is a bunch of discipline problems, and —... idiots out there with their buddies supervising them."**

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others. It is not enough that a captain is transferred out of the station to a "penalty box" assignment at some forlorn custody outpost. Supervisors up and down the chain of command should have been disciplined. The unions and others rightly point out the double standard when those with power and prestige survive with a slap on the wrist and a deputy finds his or her career ruined.

We part company with ALADS, however, when it focuses excessively on the severity of the punishment meted out to the deputy. From what we have learned, discipline of deputies, if anything, is too light. There are people who never should have been allowed to remain on the force, who are still there with a badge and a gun. See our discussion of Problem Officers.

We recommend that the top management demonstrate the unacceptability of excessive force by becoming personally involved in the disciplinary process. We recommend that with respect to any letter of intent to discharge, any founded complaint for excessive force, or any founded complaint for use of racist, anti-ethnic, sexist, or homophobic slurs or comments, the deputy or other officer involved meet personally with the Sheriff and Undersheriff. We further recommend that with respect to the same circumstances, the Sheriff and Undersheriff meet personally with the Assistant Sheriff in charge and the Division Chief from the region from which the conduct arose to discuss why the incident occurred and how it can be prevented in the future. We do not believe that accountability from the top to the bottom can be enforced unless the Sheriff and Undersheriff demonstrate by their personal presence and commitment that excessive force and impermissible conduct toward others will simply not be tolerated.

We thus agree with the union that the disciplinary system is seriously inadequate when it comes to supervisors and managers.

The case demonstrated by widespread negative perceptions regarding management performance that surfaced in a survey conducted in 1991. Eleven thousand questionnaires were distributed to sworn and civilian staff, of which 3764 questionnaires were returned.

The return rate for deputies was 30%; for sergeants, 60%; for lieutenants, 76%; for captains, 80%; and for officers above the rank of captain, 68%. An astounding 90% of survey respondents thought the Department did a below average or poor job in addressing unsatisfactory job performance.

More than 85% of supervisors thought the department did a below average or non-existent job of training them prior to their first supervisory assignment. Almost half the survey respondents rated support from top management in the below average to poor range. The promotion process was rated as below adequate to poor by 68% of those surveyed. Almost half thought that the promotion process was unfair and 64% felt that the most deserving seldom to rarely are promoted. These survey results are clear warnings that the Department needs to look quickly, seriously, and hard at performance evaluations, standards for promotion, job descriptions, and accountability at all levels.

Closely related to accountability is training for responsibility. As noted earlier, the members of the Department give it miserable marks in training for supervisory jobs. The Department has no regular mandated training for new supervisors other than the lieutenants, who attend two weeks of Police Officers' Standards and Training Commission middle management school.

The only regular supervisory training held in-house is the Sergeant Supervisory School, which was recently expanded to a three-week course. Other than these mandatory training courses, there are only occasional one-time classes on issues such as evaluations or problem employees, and one-time training is currently being held on Core Values. The lack of regular training, coupled with substantial delegation of authority without accountability, renders fundamental institutional change difficult.

## *Recommendations:*

1. The Department should look promptly at performance evaluations and accountability at all levels. It needs to conduct regular evaluations of all managers with respect to newly developed performance standards, including demotion, for unacceptable performance. The Sheriff and the Undersheriff should become personally involved in the disciplinary process as described above.

2. We recommend that a formal mechanism should be established to make sure that each supervisor maintains and passes on to his or her successor or other supervisors a full and complete picture of the strengths and weaknesses of each employee.

3. We recommend the implementation of monitoring programs to make sure that captains are using force tracking systems and other sources of information to reduce excessive force, impose discipline, reward good behavior, take care of problem deputies, and in general manage their stations in a manner consistent with community-based policing standards and in a way to reduce dissatisfaction in the community. The Sheriff and Undersheriff should meet on a quarterly basis with all captains.

4. The Department should require supervisory training for all supervisors before they are promoted into a new position.

5. The Department should develop intensive training programs for captains and area commanders. The Board of Supervisors should specifically earmark additional funds for this training.





## 26. Accountability to the Public

In the preceding chapter, we made recommendations for producing increased accountability within the LASD. We turn now to an even more important aspect of accountability: the accountability of the Department as a whole to the public. Police Departments often exist in isolation behind what has been termed "the blue curtain." As demonstrated in our discussion of the difficulty of filing citizen complaints, the LASD can also be impenetrable and closed off. Meaningful citizen participation in certain facets of the LASD's activities is necessary to reduce the Department's isolation and lack of adequate accountability.

The Sheriff's Department itself disputes that it is insufficiently accountable in general. The Sheriff is a publicly elected official, and Sheriff Block argues that one can hardly be more accountable than that. He also points out both his high approval rating in polls and the low percentage of voters who think negatively of him. He also notes that he receives various complaints and calls for redress from the city councils, city managers of contract cities, the Board of Supervisors and their staffs, and other politicians and constituencies. We acknowledge that, unlike most chiefs of police, he does have to face the voters every four years. We also can appreciate that the Sheriff's Department has a lot of people to please. But our point is somewhat different.

We are talking about what happens between elections — the lack of meaningful citizen participation and oversight in the law enforcement process. The Sheriff has no real boss. He is not appointed by the Los Angeles County Board of Supervisors, and he is not supervised by them. Whatever theoretical authority the State Attorney General has is nominal at best. The truth is that the Sheriff runs his own Department as he alone sees fit under powers derived from the California Government Code and California Constitution.

In this sense, the Los Angeles County Sheriff's Department differs from other police forces. Most large metropolitan police departments are under direct civilian oversight. Oversight of the LAPD, for example, resides in the Los Angeles Police Commission, as the Christopher Commission pointed out: "In concept, the Police Commission is intended to function much like a corporate board of directors, setting policies for the Department and



overseeing its operations in conjunction with the Chief of Police, who acts as a chief executive officer responsive to the direction and control of the Police Commission.”<sup>11</sup> Indeed, we know of no major metropolitan police department in the United States which is not subject to some civilian oversight — except for the Los Angeles County Sheriff’s Department.

Nor do we believe that the status of the Sheriff as an elected official is tantamount to civilian oversight. A police commission, as noted earlier, is like a board of directors which meets on an ongoing and regular basis to receive information and monitor developments, set broad policy, change direction if necessary, oversee the operations and hold executives accountable for fulfillment of policy and goals. The opportunity to vote once every four years for Sheriff is not even arguably the same.

This lack of oversight makes the Sheriff’s Department an anomaly among the major police departments in this country. This fact, standing alone, may not be enough to support a change of policy. But as this report has set forth, the LASD has not been able to oversee its own problems of excessive force in the past and has not reformed itself with adequate thoroughness and speed. Hence, there probably should be such oversight by a police commission or its analog. In its current absence, however, and in order to begin immediately to deal with excessive force issues, it becomes even more critical that there be citizen participation and involvement at three levels in the Sheriff’s Department’s affairs: (1) in the process for review of citizen complaints; (2) at the level of the station house; and (3) by way of general monitoring and auditing.

For these purposes, we are speaking of all complaints of police misconduct by any person not an inmate in a county jail facility. It would include, however, complaints by persons being booked or held in a lock-up at a station house. **For purposes of legitimacy, integrity, accountability and trust it is absolutely necessary that there be an opportunity for any person who is aggrieved with the disposition of a police misconduct complaint to have the Department’s decision reviewed by a detached outsider.**

This participation legitimizes the process. It can counter whatever tendency may exist by police officers to second-guess fellow officers. It adds the potential for greater objectivity and detachment. It also offers an opportunity for input about police practices, the value of which cannot be overemphasized, as authors on the topic of police accountability point out:

“As individual complaints are examined, the acceptable limits of police practices in enforcing laws and maintaining order can be better delineated. Such an approach . . . would offer the opportunity for conciliating differences between police and citizens and for clarifying the community’s moral consensus as to what is the appropriate police response to crime and disorder. The results would minimize the ambiguities faced by police officers as they are called upon to serve in our culturally diverse communities . . . .”<sup>2</sup>

**We are not calling for a Civilian Review Board as such. We do recommend, however, that the LASD agree to procedures for civilian participation in the adjudication of citizen complaints which charge, in words or in substance, wrongful force, harassment, disrespectful conduct and analogous misconduct by the Sheriff’s personnel.**

**If such a complaint is finally adjudged by the Department to be unfounded or unable to be resolved, we believe a citizen should be entitled to a review of that decision by someone outside the Department. That person should be empowered to affirm the initial adjudication or remand it to the relevant captain for further investigation or readjudication.**

**The model we have in mind would operate as does a court of appeal reviewing a verdict. If the decision of the Department that a complaint is unfounded is supported by the investigatory record, the Department is affirmed. If not, the case is remanded for further investigation and rededcision by the relevant captain.**

We are attempting to create parity between the rights afforded to an officer possibly subject to discipline for excessive force and the rights afforded to the citizen who is

possibly the victim of such force. As described in greater detail in our chapter on Complaints and Discipline, if a citizen's complaint is held to be founded and discipline is proposed, the County of Los Angeles provides an extensive review and appeal process for the officer: If the Department decides to impose discipline in the form of a suspension without pay for five days or less, the officer may appeal the proposed discipline to the Employee Relations Commission (ERCOM), a three-member panel appointed by the Board of Supervisors; if the Department intends to suspend the officer for more than five days or proposes to discharge or demote the officer, the officer is entitled to a hearing with respect to the proposed discipline before the Civil Service Commission, a five-member panel different from ERCOM but also appointed by the Board of Supervisors. Both ERCOM and the Civil Service Commission have the power to subpoena witnesses and order the production of documents. The ERCOM and Civil Service system is described in greater detail in other sections of this report.

In contrast, there is no process whatsoever for review of a citizen's complaint that has been held to be unfounded or unable to be resolved: the station captain whose officer has been accused by the citizen has the last word. No matter how scrupulously fair and detached the captain may be, the system does not have the appearance of integrity and legitimacy and, as we have pointed out in our discussion of investigations of citizen's complaints, the system has substantial flaws and an inherent bias in favor of the LASD officer. The opportunity for a review outside the Department will provide the missing sense of legitimacy and integrity.

Who, then, should perform the function of civilian review? It seems obvious that there are professionals whose training and experience uniquely suit them for detached, objective, fair decisions and the weighing of facts and evidence: judges. There are substantial numbers of highly qualified men and women of diverse backgrounds and experience from all parts of the County who have retired from active service on the bench who are available to be engaged to perform judicial services.

We suggest that a panel of such individuals could easily be assembled. Individual judges could then be assigned on a random basis to perform a review if an aggrieved citizen wishes to appeal the Department's finding that his or her complaint is unfounded or cannot be resolved.

### *Recommendations:*

**1. We recommend that the Board of Supervisors select an individual of the highest integrity and trust to meet with a representative of the Sheriff's Department to prepare a list of mutually acceptable retired judges who, upon acceptance of the responsibility, would be placed on a panel to be randomly drawn to perform the review function upon such reasonable terms and conditions as might be arranged between the County of Los Angeles and the individual judge.**

**2. The second level of citizen participation should be at the station house. We refer here to our discussion of community policing, where we recommended that the Sheriff's Conference Committee in West Hollywood and the ongoing work of the West Hollywood Public Safety Office with the West Hollywood Station should serve as a template for similar programs to be established at each station.**

**3. The final area of citizen participation should be in the process of monitoring and auditing the LASD. We believe that a commission should be appointed by the Board of Supervisors and empowered on an ongoing basis to audit and monitor the LASD on the topics covered by this report, and any others the Board of Supervisors may deem appropriate. Such audits should be conducted of the LASD at least every 18 months.**



# Executive Summary

## *Executive Summary and Key Recommendations*

In December 1991, the Board of Supervisors of Los Angeles County appointed retired Superior Court Judge James G. Kolts as Special Counsel to review the policies, practices and procedures of the Los Angeles County Sheriff's Department (LASD), including review of "recruitment, training, job performance and evaluation, record keeping and management practices, as they relate to allegations of excessive force, the community sensitivity of deputies and the [LASD's] citizen complaint procedure."

Judge Kolts engaged Merrick J. Bobb of the law firm of Tuttle & Taylor to act as General Counsel of the investigation. He in turn assembled a staff of more than 60 lawyers, certified public accountants, a psychologist, a newspaper editor, and other academics and professionals to conduct the inquiry which took six months and involved the review of hundreds of thousands of records. Three public hearings were held. The staff met with representatives of major interest groups and conducted interviews of hundreds of individual witnesses and groups, including in excess of 100 present and former members of the LASD and a substantial part of all officers of the rank of captain and above.

Based upon the foregoing, **the principal conclusion of Judge Kolts and his staff is that within the LASD there is deeply disturbing evidence of excessive force and lax discipline. The LASD has not been able to solve its problems of excessive force in the past and has not reformed itself with adequate thoroughness and speed.**

Implicitly acknowledging this, since mid-1990 the LASD has been undertaking self-examination in its approach to force, discipline, training and community orientation. The LASD's openness to change and flexibility should be credited to Sheriff Sherman Block, whose temperament and style have encouraged self-examination in the LASD. Sheriff Block and the LASD do not have a policy or practice of encouragement of excessive force.

**Nonetheless, the LASD, like the LAPD, has too many officers who have resorted to unnecessary and excessive force. The LASD has not done an adequate job of dis-**

ciplining them. It has not dealt adequately with those who supervise them. It has not listened enough to what the communities and constituencies of the LASD want and expect in their police. This report is a somber and sobering one in terms of the large number of brutal incidents that have been and still are occurring. The LASD has a longer way to go than it has travelled thus far before its performance in the area of force, complaint resolution, internal investigation and community policing is where a law enforcement agency of its importance should be.

Judge Kolts and his staff, therefore, made a series of recommendations addressing each issue studied by the staff. **The key recommendations are that the LASD should emphasize at each level of the department by every means possible that it will not tolerate excessive force. Every word and action of the LASD should reinforce that policy. There should be civilian oversight in the process for review of citizen complaints and there should be citizen participation and involvement at the station level. There should be regular civilian auditing and monitoring of the LASD. Additionally, fiscal and human resources should be made available for the rapid implementation of community-based policing at each station and throughout the LASD.**

*Other principal recommendations are:*

**1. The LASD should put an end to any discouragement by any member of the LASD to the filing of a citizen's complaint. A complainant should be able to receive and fill out a citizen's complaint form at a variety of Los Angeles County facilities. Such forms should be available in English, Spanish and any other languages widely spoken within Los Angeles County.**

**2. The LASD should put an end to the practice of some officers to refuse to identify themselves to possible complainants. To that end, each member of the**

LASD should be required to carry business cards and to hand them out to anyone who requests one. Each member of the LASD should provide his or her complete name and employee or badge number to any civilian who requests the information. No member of the LASD should be allowed to contact complainants or witnesses to discourage the filing or prosecution of complaints.

3. The LASD and other relevant legislative and executive bodies should remove obstacles to the complainant's right to learn the status of the investigation of a complaint and what discipline, if any, has been imposed.

4. An independent, adequately staffed Internal Affairs Bureau headed by a commander reporting directly to the Sheriff should have the sole authority to conduct formal administrative investigations of (a) citizen complaints of unnecessary or excessive force or harassment on the basis of race, sex, religion, ethnicity or sexual orientation, (b) officer-involved shootings and (c) deaths which occur in custody. These investigations should be completed in a timely fashion and the Board of Supervisors should earmark additional funds for the expansion of the Internal Affairs Bureau.

5. In order to maximize the enforcement and deterrence functions of the disciplinary process, the LASD should vigorously prosecute disciplinary cases and refrain from mitigating the discipline during the process.

6. The LASD should implement a department-wide force tracking and early warning system to monitor which deputies use more force than is necessary or are likely to do so and which stations appear to generate cases involving the use of excessive force. The system should integrate data to track which deputies and stations are involved in citizens' complaints, lawsuits and administrative claims.

7. The LASD should adopt as a formal policy that intentional headstrikes with any impact weapon are strictly prohibited unless deadly force is justified under the same circumstances.



8. The LASD should create an atmosphere within the LASD where race, gender, ethnicity and sexual orientation are irrelevant to the workplace and should condemn and impose discipline for any discrimination on any of these denominated bases. The LASD should conduct proactive, imaginative and effective recruitment efforts particularly for females, minorities and lesbians and gays. The LASD should increase the salary bonus for bilingual deputies in areas with a large need for bilingual services and provide other incentives for deputies to become bilingual. The LASD should take aggressive steps to eradicate offensive station mascots and conduct an immediate, thorough Internal Affairs investigation to identify, root out and punish severely any gang-like, racist, sexist, anti-ethnic or homophobic conduct.

9. The Department should undertake a thorough assessment of the feasibility of placing deputies in patrol during their probationary period prior to assigning them to custody. Each deputy should be rotated out of custody once every six months for a minimum of 24 paid hours of community service work in a social service agency.

10. The Department should adopt substantial reforms of its canine program.





## Chapter 4

1. The County Counsel's Office has the authority to settle a civil case against the Department for less than \$20,000 with concurrence of the Department. Settlements of more than \$20,000 but less than \$100,000 may be made with the concurrence of the Department and the County Claims Board. Settlements of more than \$100,000 need the approval of the Board of Supervisors.

2. The higher figure of \$32 million in Sheriff's Department settlements and verdicts during the past three years sometimes cited in newspaper accounts includes some non-force cases such as traffic accidents and false-arrest cases that do not involve excessive-force allegations.

## Chapter 7

1. Inmates wishing to lodge a complaint may fill out an "Inmate Complaint Form" which is virtually identical to the complaint form available to citizens.

2. Prior to November 1991, dispositions were made by the concerned region chief and then routinely reviewed by one assistant sheriff and the Undersheriff. The current process was adopted as a part of the concerted effort to empower station captains.

3. Naturally, we were unable to contact individuals who were dissuaded from filing a complaint in the first place.

## Chapter 8

1. McErlain, *Deadly Force: An Age-Old Problem, A Future Solution*, CALIFORNIA PEACE OFFICER 24, 24 (March 1992).

## Chapter 13

1. Civilian labor force statistics cited in this section are based upon the 1980 U.S. Census reflected in the California Employment Development Department's March 1986 *Labor Market Information for Affirmative Action Programs*.

## Chapter 22

1. Jerald R. Vaughn, "Community Oriented Policing — You Can Make It Happen," *Law and Order Magazine*, June 1991, p. 35.

2. Robert C. Trojanowicz, "Community Policing Is Not Police-Community Relations," *FBI Law Enforcement Bulletin*, October 1990, p. 8.

3. *Los Angeles Times*, October 24, 1991, Metro; Part B; Page 1; Column 2.

4. *Los Angeles Times*, October 30, 1991, Metro; Part B; Page 1; Column 4.

5. *Id.*

## **Chapter 25**

1. George L. Kelling, Robert Wasserman and Hubert Williams, *Police Accountability and Community Policing*, "Perspectives on Policing," (November 1988, No. 7), a publication of the National Institute of Justice, U.S. Department of Justice and the Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, Harvard University, p. 4.

2. *Id.* at p. 6.

3. *Id.*

## **Chapter 26**

1. Report of the Independent Commission on the Los Angeles Police Department, Chapter 10, p. 183 (1991).

2. Werner E. Petterson, "Police Accountability and Civilian Oversight of Policing: An American Perspective," *Complaints Against the Police/The Trend to External Review*, Chapter 8, p. 273, Clarendon Press, Oxford (1991).

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