

*The Los Angeles County*

# **Sheriff's Department**

## **16th Semiannual Report**

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

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# S i x t e e n t h   S e m i a n n u a l   R e p o r t

## *Introduction*

This is the Sixteenth Semiannual Report of Special Counsel. It was preceded by five lengthy investigations during the second half of 2002 and reflects observations about Los Angeles County Sheriff's Department (LASD) as of December 2002. The County of Los Angeles has retained Special Counsel to review the Sheriff's Department and its operations and activities so that Special Counsel might, among other things, render legal advice and make confidential recommendations to the County, with particular attention to areas of potential litigation risk or exposure. Without compromise of the attorney-client privilege or the work product rule, Special Counsel also prepares these public Reports which are intended primarily to assist the Board of Supervisors in its ongoing responsibilities regarding the LASD and to identify areas in which reforms may be advisable or could be undertaken. Similarly, the Reports provide guidance to the Sheriff and inform the public at large. We further describe how we go about our job in Chapter Six of this Report. We turn now to the substantive areas covered by this report.

Chapter One deals with officer-involved shootings that might have been avoided. A key task of Special Counsel is to examine whether shootings of suspects might have been prevented by better tactics, training, or strategy. This Chapter addresses a subgroup of shootings involving foot pursuits by deputies. A foot pursuit involves one or more deputies chasing a suspect on foot. Of 239 LASD shooting cases between 1997-2002, at least 52, or roughly 22 percent, involved shots fired by deputies during or at the conclusion of a foot pursuit. In researching Chapter One, we reviewed all those cases, as well as 250 other foot pursuits that did not result in a shooting. Chapter One discusses shootings that might have been avoided by commonsensical approaches to apprehend the suspect that at the same time would lower risk to the deputies' own lives. The foot pursuits were in many instances tactically or strategically unsound, and the LASD has not done its best, since the issue was first raised in Semiannual Reports many years ago, to eliminate these unnecessary shootings.

Chapter Two discusses research and observations on the Personnel Performance Index, or PPI — the LASD’s early warning system that tracks information regarding citizen’s complaints and use of force, among other things. The data sent to the PPI has fallen into a state of neglect. The reports and data sent to it are often sloppy and error-ridden. The rejection rate on citizen’s complaint packages sent to the PPI currently ranges from 50 to 73 percent, accordingly to internal LASD quality control audits. Because of unresolved questions about what constitutes a citizen’s complaint, there are inconsistencies in what gets reported. Because policy has remained ambiguous, artificial lines have been drawn ad hoc which exclude many excessive force complaints that should be investigated and documented as such. There are long delays in entering information into the computer database. There is widespread ignorance about what the PPI can do among those who should be using it the most — captains and lieutenants. Whereas in the 1990’s, the PPI was the centerpiece of a conscious effort to identify personnel and patterns that needed attention and correction, today it is underutilized.

Chapter Three builds on observations in Chapter Two that the PPI is a powerful, although currently largely untapped, resource for the analysis of force incidents involving LASD personnel. In order to demonstrate the power of the PPI and to conduct research for this Report, we used the PPI to examine all non-custody use of force cases in the past five years that involved striking a suspect with an impact weapon. We wanted to learn whether deputies were using batons appropriately. The study’s results gave cause for concern and diverted attention from a study of baton use alone: We found that flashlights, which can cause greater injuries than batons, and which are not generally authorized for use as impact weapons, were being employed in almost two-thirds of all cases in which a deputy strikes a suspect with an impact weapon.

In Chapter Four, we compare the PPI to other similar systems across the country. For now, the PPI remains the best-conceived system overall. But not

for long. The LASD will be remiss if it ignores the advances made by other departments and fails to keep up with the state of the art. Indeed, the LASD will soon find that the PPI has been surpassed once the early warning systems mandated by the United States Department of Justice in the Los Angeles (LAPD) and Washington DC (MPD) settlements come on line. We also report on innovations developed by the Pittsburgh and Miami-Dade police departments and others with an eye toward suggesting how the LASD can ensure that the PPI keeps pace with emerging national standards for managing police risk.

Although most LASD officers will never fire their weapons in the line of duty, they must be confident that if the need arises, they will be able to make appropriate split-second decisions about whether or not to shoot. Once a decision to shoot is made, deputies must shoot accurately and in a disciplined manner. Because training about when to shoot and when not to shoot relates directly to avoidance of unnecessary or preventable shootings, it proved useful to study the LASD's tactical firearms training at Laser Village. Chapter Five sets forth the results. The quality of instruction provided is impressive, but the infrequency that LASD officers are given a chance to benefit from this excellent instruction is dismaying. In theory, officers are exposed to tactical training at Laser Village as part of their continuing professional training once every two years — a too infrequent interval, in our view. But the reality is that many patrol officers must wait more than three years between Laser Village sessions. Firearms skills are highly perishable, and thus LASD deputies need more frequent refresher training if they are to retain those skills and to maintain the confidence they need in order to make sound decisions on the street.

Chapter Six, as noted earlier, describes in more detail how Special Counsel goes about the job of reporting on the LASD.

Following Chapter Six is an Appendix with tables setting forth data we routinely collect and publish concerning LASD-related litigation and use of force.



# 1. Dangerous Foot Pursuits

## *Introduction*

*“I hate foot pursuits. They get deputies killed.”*

-LASD FORCE TRAINING INSTRUCTOR

*“I asked [one of my colleagues], ‘When are we going to start to treat these ridiculous foot pursuits as a disciplinary matter — as an instance when the deputy has utterly failed to perform to the most basic standards of tactics that we expect of our deputies?’ You know, he first looked at me as if I was some kind of alien. Finally, he says to me, ‘Oh, I hope to God we never have to go there.’ That’s the mindset of a lot of us out there. And shame on us for it, because that attitude is going to continue to generate shooting after shooting that could have been avoided.”*

-AN LASD EXECUTIVE.

A key task of a law enforcement monitor like Special Counsel is to examine whether shootings of suspects might have been prevented by better tactics, training, or strategy. This Chapter addresses a subgroup of shootings involving foot pursuits by deputies. Of 239 LASD shooting cases between 1997 — 2002, at least 52, or roughly 22 percent, involved shots fired by deputies during or at the conclusion of a foot pursuit. In researching Chapter One, we reviewed those cases, as well as 250 other foot pursuits that did not result in a shooting. This Chapter discusses shootings that might have been avoided by commonsensical approaches to apprehend the suspect that at the same time would lower risk to the deputies’ own lives. The foot pursuits were in many instances tactically or strategically unsound, and the LASD has not done its best, since the issue was first raised in Semiannual Reports many years ago, to eliminate these unnecessary shootings.

The 1992 Kolts Report noted that the LASD was inattentive to strategic and tactical errors by deputies that resulted in unnecessary use of deadly force. We urged the LASD to consider tactical alternatives which would have



preserved the life of the suspect without eroding deputy safety. Soon after semi-annual monitoring began in 1993, we focused on an unusually frequent strategic and tactical error — solo foot pursuits of armed suspects, noting, for example, in the April 1994 Second Semiannual Report:

“Our review of cases taken to the commanders’ panel [which reviews shootings and high risk uses of force] pointed out a continuing trend that the LASD might wish to consider... In several of these incidents, an officer split from his partner in foot pursuit of a suspect known or believed to be armed. In such cases, the deputy found himself in serious trouble when he caught up with the suspect only to find there was no partner or other deputies to provide backup. In those dire straits, the deputy was forced to use deadly or near deadly force whereas if two or more deputies were present, or a containment had been established, less serious force would have been necessary and deputy safety would have been enhanced.” *ID. AT 35-36.*

The Report recommended that the LASD tackle the issue of foot pursuits globally, rather than deal with individual deputies’ tactical errors on an ad hoc basis:

“To this point, these [foot pursuit] cases have resulted in additional counseling or training for the deputies involved. We raise for the Department’s consideration whether more general training or instruction should be given about the dangers of splitting from one’s partner and failing to call for a containment and backup before initiating a pursuit.” *ID. AT 36.*

In the years that followed, as this Chapter will demonstrate, the LASD has not done its best to curb reckless or imprudent foot pursuits where deputies disregard their training, go after suspects on foot, and wind up putting themselves, or finding themselves, in grave danger and must shoot. The concerns are two-fold: First, the LASD has neither firmly nor clearly enough established

policies banning certain types of tactically unsound foot pursuits, and second, the LASD has not rigorously held deputies to account even when they engage in foot pursuits that run afoul of the LASD's current, less-than-ideal policy in the area, embodied in Field Operations Directive 97-7 (FOD 97-7) promulgated in May 1997. FOD 97-7 has proven to be insufficiently proscriptive.<sup>1</sup>

The LASD seems reluctant to come down decisively when a deputy engages in a tactically reckless foot pursuit that puts the deputy himself in real danger. A lieutenant explained it this way:

“The thinking oftentimes is that if the deputy gets in over his head as the result of a foot pursuit, the fear factor — the deputy's very real realization that his ass could have been dead out there — is enough ‘punishment’ for the guy not to act like an idiot again. Plus, it's awfully bad PR for managers to take a deputy who nearly lost his life at the hands of a bad guy and say, ‘We're glad you're alive, you won the battle, but now you are getting time off for violating our foot pursuit policy.’ You aren't going to see many managers jumping for the chance to give that speech to a scared, dazed young kid, I can tell you that.”

On the other hand, a wise manager realizes that discipline in such circumstances may be the best thing. One LASD Executive put it this way:

“It sounds trite, but tagging depts for taking ridiculous, outrageous risks to go on one of these [tactically reckless] foot pursuits is for their own good. If we really mean what we say when we say we care deeply about our deputies, then we need them to realize, before they go off to the races chasing some bad dude — who in all likelihood is carrying a piece — to get them to realize that, even if they survive the hunt, they might end up facing time off.

<sup>1</sup>The LASD is not alone among major law enforcement agencies in having too weak a policy regarding foot pursuits. Tactically unsound foot pursuits are a national problem, and the LASD is not unique in its difficulty fashioning good policy in this area.

Maybe that will force them to do a little more cost-benefit analysis, because time off is a lot more real to some of these young kids than the idea of getting killed.”

Part I of this Chapter describes the results of our review of the last six years of shootings involving foot pursuits. The analysis focuses on the inadequacy of FOD 97-7. Part II will demonstrate that currently there is insufficient LASD internal review, analysis, and criticism of foot pursuits. Part III describes policies from two other cities that appear to work better than current LASD policy. We conclude in Part IV with recommendations.

### *I. Field Operations Directive 97-7 is inadequate*

A recent LASD case sets the framework for discussion.

#### Case Study No. 1

Deputy V, working a one-deputy patrol car late at night, stopped a driver for running a stop sign in a high crime neighborhood. The driver, who turned out to be taller and heavier than Deputy V, got out of his car and walked toward the passenger door of Deputy V’s patrol car. Deputy V suspected that the car he had stopped might be stolen. Deputy V asked the driver for his license. When the driver admitted he had no license, Deputy V asked him if he was on parole. The driver admitted he was.

Deputy V then asked the man to put his hands on the hood of the patrol car so that he could be searched. Deputy V later told investigators that the driver complied with this request, although he gave the deputy a look that “kind of made the hairs on the back of my neck stand up.” Deputy V patted the driver down and found no weapons or contraband. Although the driver said he was in the neighborhood to visit a friend, he could not identify the street he was on and was slow in coming up with the name of the purported friend. Deputy V then told the driver that he was going to check his parole status. The driver replied,

“I’m clean, you can check me.”

As they reached the patrol car, Deputy V attempted to make a second, more thorough pat-down for weapons. The suspect spun around, kicked at the deputy, and ran toward the backyard of a nearby residence. Deputy V decided to run after the suspect, who was no longer in sight. Deputy V, in police terminology, began a “foot pursuit.”

Moments later, Deputy V stumbled into the suspect near the backyard fence. The suspect quickly overpowered the deputy and pulled Deputy V, his heels literally dragging, into the backyard. A life-and-death struggle began as the suspect reached to pull Deputy V’s gun out of its holster. Within moments, the suspect had his hands on the gun, pointing it at Deputy V’s face. Unable to regain full control of his weapon, Deputy V tried to prevent the suspect from shooting him by slipping his little finger behind the trigger. As Deputy V feared, the suspect squeezed the trigger several times, but Deputy V’s little finger, now fractured in several places, kept the gun from going off.

Exhausted from the fight and on the verge of passing out from repeated punches to the head, Deputy V managed nonetheless to strike a distracting blow and regain control of his gun. On his knees, and barely able to see the suspect before him, Deputy V fired, striking the suspect in the chest. He then collapsed, lying only a few feet away from the fatally-wounded suspect. He broadcast for help and remained in a daze until assistance arrived.

As it turned out, the suspect had an extensive history of violent crime, including a prior incident in which he tried to strip a gun away from a different Sheriff’s deputy and had very nearly succeeded. Given the obvious and dire threat to Deputy V’s life, the LASD determined that the shooting was within policy and closed its books on the matter.

Although we do not quarrel with the LASD’s conclusion that Deputy V shot when he was in fact in mortal danger, it is also clear that Deputy V handled the incident incorrectly. The LASD’s internal analysis was too narrow: The inquiry should not have begun and ended with the question whether the shooting

was justified. Rather, the LASD should have considered whether the shooting could have been avoided and examined the training and tactical ramifications where, as here, a deputy seems heedlessly to have decided to run after a suspect even though:

1. The deputy was all alone;
2. It was dark;
3. The stop was made in a high crime area;
4. Until the suspect ran, he had engaged in no illegal activity more serious than driving without a license and running a stop sign;
5. No one from the deputy's station knew his whereabouts or that he was chasing a suspect on foot;
6. The suspect was taller and heavier than the deputy and was on parole;
7. The deputy lost sight of the suspect in the darkness before starting to run after him;
8. The deputy evidently had no clear plan of action other than to chase the suspect;
9. The deputy apparently failed to follow his training, in which case he would have established contact with his station, resisted the impulse to run after the suspect, and would have coordinated a containment to isolate the suspect and prevent his escape. He should have summoned other deputies to the scene and established a plan to search for and capture the suspect that posed the minimum possible risk to the suspect's or the deputies' lives.

FOD 97-7 did nothing to prevent the shooting which took place in Case Study No. 1. Less an actual policy prohibiting all but the most necessary and justifiable foot pursuits, FOD 97-7 is instead a list of recommendations and caveats. It does not state any firm requirements or make any firm prohibitions. Consequently, if a deputy engages in a foot pursuit he should not have begun, uses tactics that were unwise and ill-considered, and shoots someone he prob-

ably would not have shot if he had followed his training, there is little the LASD can do about the matter because the directive is not a solid foundation for discipline.<sup>2</sup>

Equally problematic, the LASD launched FOD 97-7 without providing any meaningful new training on foot pursuits. Apparently, the only formal training was dissemination of the policy, a discussion of it during briefing, and a video presentation.<sup>3</sup> Furthermore, the LASD failed to insist that its training unit review foot pursuit cases to ensure overall consistency in tactics. Indeed, Training has never reviewed the hundreds of foot pursuit files sent to it. Instead, the files have sat in a tiny storage room for years, literally collecting dust.

In contrast to vehicle pursuits, which are reliably tracked, the LASD does not keep tabs on foot pursuits and currently cannot state how many foot pursuits occur each year, or result in a use of force, or lead to an injury to a deputy. Even the Personnel Performance Index, or PPI, the LASD's early warning system, cannot track foot pursuits reliably.<sup>4</sup> Thus, the PPI cannot be used reliably to locate all shooting cases that involved a foot pursuit. The numbers that nonetheless find their way into the PPI warrant serious attention,

<sup>2</sup> We nonetheless did find instances in which the LASD proposed to discipline deputies who had engaged in highly reckless foot pursuits, including one where a deputy had chased three suspects all by himself while leaving a fourth, unsecured suspect behind. But the cases ultimately were settled for reduced penalties in the grievance process because, it appears, FOD 97-7 is so loosely worded that the LASD feared losing the cases. The settlements either rescinded the finding of misconduct or substantially reduced the intended discipline. In one example, the LASD agreed to rescind an 11-day suspension and absolve the deputy of any misconduct; in another, the LASD reduced a proposed 15-day suspension to three days off.

<sup>3</sup> The LASD apparently ceased recently providing any in-depth, formal training about foot pursuits. While foot pursuits are debriefed at the station and the policy is discussed, currently there is no formal training in this area for deputy personnel, even though training in this area would enhance deputy safety and improve deputy performance.

<sup>4</sup> There is no foot pursuit module in the PPI. Neither the Use of Force Module nor the Service Comment Reporting modules contain any fields indicating whether a foot pursuit was involved. Although the Deputy-Involved Shooting Module has a foot pursuit field, there is no requirement that a supervisor record when a foot pursuit had taken place. We found that supervisors did not always add a foot pursuit designation to shootings that clearly involved foot chases. For example, one PPI entry lacking a foot pursuit designation contains a synopsis that begins, "Deputies [A] and [B] go in foot pursuit of a suspect armed with a handgun."

demonstrating that about 22 percent of deputy-involved shootings over the past six years were preceded by a foot pursuit.

The LASD promulgated FOD 97-7 on the premise that if deputies were reminded of the risks involved, they would voluntarily stop reckless foot pursuits. Our analysis shows that premise was flawed. The problem seems to be that when faced with a suspect who is running away, many deputies do not weigh the risks involved before giving chase. Some give in to competitive instincts: they want to demonstrate that no one escapes from them. Other deputies succumbed to the thrill of the chase and thus, in the words of one fore training expert, “did their thinking with their adrenals instead of their brains.” As one executive observed,

“Everyone in patrol prides himself on two things: deputy safety and tactics. You’ve got deputies out there who would walk to New York City to take a week-long course in safety and tactics. But if [safety and tactics] conflict with what they want to do in the heat of the moment, they take off [on foot pursuits]. Then, after they end up in a shooting, they’re saying, ‘Hey, no second-guessing us out there.’ That’s the mentality.”

In other cases, deputies substitute tactics learned at the academy with unapproved “street tactics,” such as partner-splitting. The experience under FOD 97-7 proves that merely reminding deputies of the dangers of foot pursuits is not enough.

Just as the LASD clamped down on high-risk car chases with a strict vehicle pursuit policy,<sup>5</sup> so too should the LASD promulgate a new and stricter policy to replace FOD 97-7. Each of the case studies set forth below occurred while FOD 97-7’s has been on the books, thus proving the directive to be inadequate. The cases discussed below are grouped to highlight a specific tactical or

<sup>5</sup> In this regard it is worthwhile to note that the LASD was the first major law enforcement agency in the nation to substantially restrict deputy discretion to engage in vehicle pursuits. Recently, the LAPD under Chief Bratton also chose to substantially narrow the circumstances in which the Los Angeles Police Department may engage in vehicle pursuits.

strategic error that FOD 97-7 fails adequately to ban outright, thereby arguably leading to unnecessary and preventable shootings.

### *1. One-Deputy Pursuits.*

Case Study No. 1 demonstrated that foot pursuits are most dangerous when they involve only one deputy. Although LASD training manuals recognize the danger,<sup>6</sup> foot pursuits involving one deputy nonetheless continue to occur, as in Case Study 1, and in a very recent incident. On December 13, 2002, a solo deputy chased a suspect into the backyard. The suspect drew a .38 revolver and fired twice at the deputy, barely missing. The deputy fired back and struck the suspect in the leg. Although the investigation of this case is ongoing, and although we express no views whatsoever as to whether the shooting was in or out of policy, it is clear from the example that solo foot pursuits continue to happen and result in serious risk to LASD deputies.

### *2. Partner-Splitting.*

Similarly, foot pursuits involving partner splitting continue to occur frequently, despite a mistaken view of some within the LASD that the practice had been banned.<sup>7</sup> Partner splitting occurs when a two-deputy team deliberately divides up to pursue one or more suspects. A particularly dangerous variant occurs when the passenger deputy exits the patrol car to chase the suspect on foot while the driver takes the car around the perimeter to cut the suspect off.

<sup>6</sup>“Due to the dangers associated with foot pursuits, deputies are trained to avoid pursuing a suspect on foot unless there are at least two deputies involved. This allows the tactical advantages of utilizing both a contact and cover deputy and multiple deputies being able to handle a combative or deadly suspect safer than a lone deputy. A rapid containment and systematic search is almost always safest and more effective than a lone deputy chasing a suspect. . . . Foot pursuits are second in danger only to vehicle pursuits. Department guidelines discourage foot pursuits; however, they are a reality in providing effective law enforcement. We require deputies to use extreme caution when in a foot pursuit. [We train deputies:] Never chase someone by yourself and, if possible, never split partners.” LASD Force Training-Unit Force/Shooting Rollout Manual 24-25.

<sup>7</sup> We asked numerous other LASD officials to explain the LASD’s position on partner-splitting. The results were mixed. Some (erroneously) informed us that the practice has been outlawed. Others (erroneously) informed us that partner-splitting was a relic of the past. All replied that partner-splitting is a reckless tactic that has no place in modern law enforcement. Having made this pronouncement, however, none could explain why the Department was unwilling to discipline deputies who engage in partner-splitting.



The case studies which follow illustrate the high danger when a deputy disappears from view and can no longer be assisted by his partner. In each instance described below, the pursuing deputy puts himself at great risk and eventually feels forced to unholster and often to fire his weapon. More thoughtful tactics and strategy would very likely have prevented the shootings and greatly reduced the risk to the deputies involved.

### Case Study No. 2

Deputies P and Q were working a late night shift in a patrol car when Deputy P saw a car in front of them with an expired registration. Deputy P activated the patrol car's red lights, but the driver failed to pull over and, instead, ran a red light and continued on down the street. The patrol car followed. The driver then began to slow the car down and pull it to the right, as if he intended to stop for the patrol car. But as the patrol car came up on the suspect vehicle, the driver would suddenly pull away. On one such occasion, however, the suspect vehicle stopped unexpectedly. When Deputy P stopped the patrol car, Deputy Q found himself directly alongside the driver's door of the suspect vehicle. Finding himself in a situation where he could easily be shot if the driver had a gun, Deputy Q got out of the patrol car and ran toward its rear. The driver of the suspect vehicle remained motionless, but the passenger in the car bolted from it and ran toward an alley lined with garages belonging to an apartment complex. Deputy P also got out of the patrol car and sought cover behind the rear of it, covering the suspect driver with her Beretta.

Deputy Q then yelled to his partner that he was in foot pursuit. He ran down the alley after the suspect and around the right corner of the alleyway, where he came upon the suspect who was lying on the ground. The suspect yelled, "You've got me! You've got me!" But as Deputy Q began to withdraw his gun, the suspect rolled to his right and fired several rounds at Deputy Q, striking him in both legs with through and through gunshot wounds. Hearing the gunshots, Deputy P put out a call for backup and ran down the alley to

where Deputy Q was lying on the ground to protect him while awaiting backup. Meanwhile, the driver of the suspect vehicle took off. Neither suspect was found. Two small semi-automatic handguns, however, were recovered near the spot where Deputy Q had been shot. Although Deputy Q survived and was expected fully to recover, the incident is a sobering reminder of the dangers we are addressing here: Deputy Q could easily have lost his life if the suspect had aimed higher. Deputy Q had put himself at risk by splitting from Deputy P and running down the alley alone. Both suspects got away. The foot pursuit was neither tactically nor strategically sensible in this instance.

### Case Study No. 3

Deputies J and K were sitting in their patrol car when they saw a young man walking across the street with what looked like a handgun in his front pocket. Best practice would have required the deputies to maintain their distance from the suspect and call for backup so that the suspect could be contained before he was aware he was being watched. The deputies, however, decided instead to approach the suspect and “see what he was going to do.” As Deputy J drove his patrol car toward the curb where the suspect was standing, Deputy K felt sufficiently uneasy that he drew his gun and placed it on his lap, presumably out of the suspect’s view. Deputy K then called out to the suspect, “Hi, how are you?”

Fortunately for the deputies who were, in this instance, sitting ducks, the suspect responded to Deputy K’s greeting by turning and running away. Deputy K bolted out of the radio car and tried to catch the suspect on foot. Meanwhile, Deputy J continued the pursuit in his car, following the suspect and his partner.

The chase turned into an alley, where the suspect reportedly pulled a handgun from his front pants pocket. Although both deputies claimed they saw this action, neither of them sought cover or tried to increase their distance from the suspect. Rather, Deputy K apparently ran even faster, getting at one point drawing to within ten feet of the suspect, placing himself squarely within the

“kill zone” — a place where he was vulnerable to deadly fire.

Meanwhile, a parked car in the alley blocked Deputy J in his patrol car. Deputy J then left the radio car to try to catch up to his partner on foot. At the same time, Deputy K, now tired from running, decided to return to the car and drive after the suspect. Neither deputy communicated a plan to the other nor broadcasted a call for assistance.

Upon reaching the car, Deputy K backed up and drove around the block, temporarily losing sight of both the suspect and his partner. Meanwhile, Deputy J began to close in on the suspect, putting himself at risk of being shot and not taking advantage of whatever cover or concealment was available. As the suspect rounded the corner of a supper club, Deputy J saw a group of apparently hostile men standing at the entrance and decided to slow down.

Deputy J regained sight of the suspect and caught up to him in a parking lot across the street. The suspect was bending over, gasping for breath. Although he reportedly believed the suspect might well put up a fight, Deputy J continued to close in to make what would have been an ill-advised solo arrest. But as he drew closer to the suspect, he thought he saw the man turn and reach for his waistband. Deputy J then fired a single round while on the run, missing the suspect. At this point, the suspect surrendered. Notwithstanding the deputies' suspicion that the suspect had a gun and Deputy J's apparent perception that the suspect had been reaching in his waistband, no weapon was recovered at the scene or anywhere else along the suspect's flight path. Nonetheless, Deputy J's actions in closing in on the suspect without backup left him with little option but to shoot if he perceived a furtive movement, even if, as apparently was the case here, the suspect was unarmed at the time.

#### Case Study No. 4

As part of their regular evening patrol, Deputies F and G stopped by a gated apartment complex to check in with the private security guards who worked there. The fenced-in complex was well-known both for its narcotics

traffic and a violent gang, the Fruit Town Pirus, which used the area as a hangout. Indeed, the two security guards who worked the gate not only carried sidearms, but wore “bullet-resistant” Kevlar vests.

This particular evening, Deputy F and G were interested in learning if the guards were having any trouble because of an ongoing war between the Pirus and another gang. As they exited their patrol car and approached the security guards at the gate, both deputies saw a group of young men congregating just inside the security fence. One of the men looked startled and started to back away from the group. Deputy F noted the suspect’s reaction and asked one of the security guards to let him into the complex. At this point, the suspect turned and ran toward the east side of the apartment complex.

Deputy F instructed Deputy G to run back to the car and drive around to the south side of the complex, where he believed the suspect would try to hop a wrought iron fence and escape. Meanwhile, Deputy F ran into the gated complex alone, in hot pursuit.

During the foot pursuit, Deputy F noticed that the suspect was hunching his shoulders in an odd, rolling manner — different, he later claimed, than when gang members simply hold their baggy pants up while they ran. Deputy F believed the suspect was pulling something out of his waistband, very likely a gun. Although his training and best practice would require Deputy F to take cover at this point, Deputy F remained in the open and continued the foot pursuit.

The suspect then suddenly turned left into an enclosed courtyard. Deputy F slowed down, but continued to advance. He took a tactically sound wide, slow turn around the corner when he spotted the suspect waiting for him in the courtyard, pointing a gun. As soon as the two made eye contact, the suspect fired one round from a semiautomatic pistol. With no cover and no time to react, Deputy F fired a single round while lunging for cover behind a nearby building corner. Deputy F’s bullet wound up buried in the side of the apartment building. When Deputy F next looked around the corner, the suspect had already dropped his

gun and fled. Deputy G, who had remained in his patrol car, never saw the suspect again, and the suspect escaped.

Both deputies seemed aware of the risks involved. Both referred to the apartment complex as a gang hangout where weapons and drugs were common. Both were aware of a recent foot pursuit through the complex that led to the recovery of a handgun. Deputy G acknowledged that entering the fenced-in complex put the deputies at a tactical disadvantage, and was quoted as saying that the local criminals knew “once you are inside the complex, you are pretty much at their mercy.” He also conceded that upon passing through the gates into the complex, a deputy was, essentially, “trapped inside.”

Despite their cognizance of the heightened risk, the two deputies nonetheless disregarded it and split up, leaving Deputy F inside the complex to deal alone with any eventuality, however dangerous. And indeed, shots were fired. Luckily, neither the deputy nor the suspect nor any third party was hurt. The LASD found the shooting justified. During Executive Force Review, one of the commanders on the review panel wondered aloud whether the deputies should be disciplined for the substandard tactical and strategic errors. Their captain argued that discipline was unnecessary because the incident scared the deputies enough that he thought they would heed management’s advice not to engage in partner-splitting again. The captain’s argument won the day. The LASD’s failure to adopt a more rigorous foot pursuit policy, combined with a reluctance to impose discipline for tactical and strategic errors that precede an unnecessary and indeed preventable shooting, in our view, sends the wrong message.

### *3. One Partner Runs While Another Follows In The Car.*

There were cases in which partners split but, unlike the case studies cited above, the partner remaining behind in the car was able to maintain visual contact with his partner. The tactics were defended within the LASD on that basis. But it amounted to a distinction without a difference.

Mere visual contact by the trailing deputy provides the running deputy with little protection. First, the deputies are unable to communicate effectively with each other. If the deputies attempt to speak with each other by radio, the running deputy's transmissions would likely be difficult to understand, and he would temporarily lose the use of one of his hands during the chase. Second, should the suspect draw a weapon, the trailing driver is rarely in a position to provide immediate assistance to his partner. Few deputies can fire their weapons at a fleeing suspect with accuracy while driving a police car, and, in many instances, the deputy involved in the foot chase will be between the driver deputy and the suspect, thereby making it impossible, or extraordinarily risky, for the driver to fire. Nonetheless, this questionable tactic persists.

#### Case Study No. 5

Two deputies working together followed a van that sped through a stop sign. Seconds later, the driver of the van tossed from his window what the deputies thought was an assault rifle. (The object turned out to be a stolen camera tripod partially covered by a nylon case). Moments later, the van blew a tire and the driver bailed out, dropping an ammunition clip on the pavement. The passenger deputy jumped out of the car and chased the suspect, whom both deputies believed was armed. The driver deputy drove behind, pointing his gun out the window and vainly asking the suspect to stop.

The suspect then ran into a vacant lot, causing the two deputies to separate. Before the driver could reconnect with his partner, the suspect had turned around and drawn his weapon on the passenger deputy, who stood out in the open, with no cover, concealment, or partner to back him up. The driver deputy was still 20-30 feet away in his car when his partner fired, striking the suspect.

#### 4. *Failure to Broadcast For Assistance.*

In nearly all of the foot pursuit cases from the past six years, the deputies

did not radio for assistance until after the pursuit was over and they had already fired their weapons. In doing so, they disregarded their training. They are taught at the Academy, Patrol School, and Laser Village that if they are going to engage in a foot pursuit, they must broadcast the pursuit “as soon as possible.” As one LASD training publication puts it, “Deputies will, at the inception of a foot pursuit, immediately announce their foot pursuit on the radio and broadcast their location, direction of travel, reason for the foot pursuit, and suspect description.” In addition, “Deputies are to monitor their communication ability while pursuing a suspect on foot by ensuring their radio is functioning properly.”<sup>8</sup> Broadcasting at the outset of the pursuit is required by FOD 07-7, which states:

“Deputy personnel initiating a foot pursuit shall, as soon as practical, provide the following information via SCC [the Sheriff’s Communication Center]:

- Unit identifier
- Suspect location and direction
- Reason for the foot pursuit
- Suspect description
- Whether or not the suspect is armed.”

Unlike other provisions in the policy, the above language is mandatory: Deputies must broadcast their pursuits as soon as practical. The reason is commonsensical: it allows a supervisor to decide whether the pursuit should be continued and whether a request for a helicopter or K-9 unit is appropriate. Despite the mandatory direction in FOD 97-7, the LASD has rarely held deputies accountable for failure to broadcast a foot pursuit. Moreover, in many cases, investigators did not even ask the deputies why they failed to

<sup>8</sup> LASD Force Team Rollout Guidelines, p. 24.

radio at the outset of their pursuit.<sup>9</sup>

##### *5. Pursuing Armed Suspects Who Have Disappeared From Sight.*

Deputies are trained to pursue armed suspects together and only pursue as long as they can keep the suspect in sight. If the deputies lose sight of the suspect, they should cease their pursuit and set up a containment of the area in which the suspect was last seen. In several of the cases we reviewed, deputies violated these principles and needlessly created the need to use deadly force.

#### Case Study No. 6

While at the scene of a “shots fired” call, Deputy A observed a suspect running from his car while fumbling with something in his waistband. As the suspect ran toward the darkened backyard of a nearby house, Deputy A and a deputy from another unit, Deputy B, pursued the suspect together. Both believed the suspect was carrying a handgun. Within seconds, both deputies lost sight of the suspect after he rounded the rear corner of the house. Rather than cease the pursuit and radio to set up a containment, the deputies continued on, neither slowing down nor carefully approaching the corner around which the suspect disappeared. These tactical errors nearly cost both deputies their lives.

As Deputy A barreled the corner, he saw a silhouette standing directly in front of him. He raised his flashlight only to find the suspect pointing a gun at him. Unable to take cover, Deputy A panicked, firing two errant shots as he

<sup>9</sup> In other cases, deputies came up with a variety of fanciful explanations as to why they did not radio earlier for help. For example;

- One deputy, who drove around the block while his partner pursued a suspect on foot, implausibly claimed that he could not find his hand-held radio because it was dangling outside of his jacket. Moreover, the deputy failed to explain why he did not use the patrol car’s radio located only inches away from him.
- One deputy claimed that he tried to radio for help as he chased an armed suspect, but the battery on his hand-held radio died. However, once the chase was over, the deputy used the very same radio to call for assistance.
- One deputy who drove his patrol car while following his partner’s foot pursuit of an armed suspect claimed that it was impossible for him to radio for assistance because he was gripping the steering wheel with his left hand and holding his gun with his right. The deputy did not explain why he could not have increased the distance between himself and the suspect so that he could safely radio for assistance.



slipped and fell over a pile of debris, losing his flashlight and sight of the suspect. The suspect could have executed Deputy A on the spot. Luckily, the suspect instead chose to flee, and he ran past Deputy A toward the back fence. Deputy A tried to get up but could not find his legs.

Meanwhile, Deputy B rounded the corner — again without slowing or taking adequate precautions — when he heard the second gunshot. Though he could not see the suspect, Deputy B failed to stop or take cover, thereby offering the suspect a second opportunity to kill A and an opportunity also to shoot B. Deputy B then saw Deputy A on the ground, pointing his gun toward the rear of the yard. Deputy B pointed his flashlight in that direction and saw the suspect lying on the ground, waving his hands up and down. The suspect was taken into custody without further incident. Both deputies were counseled about their reckless tactics, but no further action was taken. Deputy A, who led the near-deadly foot pursuit, was a training officer for new deputies on patrol at the time and still holds that position.

#### Case Study No. 7

Several deputies engaged in a vehicle pursuit of a suspect in a stolen vehicle connected to an armed robbery. The suspect evaded deputies and collided with several civilian vehicles before getting a flat tire and stopping in the driveway of an apartment complex. The suspect then bolted from the car and fled on foot, with five deputies on foot right behind him. Despite the presence of an aero unit and several patrol units in the immediate area in response to a broadcast of a vehicle pursuit, neither the deputies nor the sergeant set up a containment of the neighborhood. Instead, five officers chased the subject down the same path, within ten yards of each other, while other available units stood by, waiting for instructions. During the foot pursuit, the suspect pulled a gun from his waistband, a fact the deputies managed to communicate to each other. The suspect then vaulted a cinder block wall, disappearing from sight. Deputy C then stuck his head over the wall to take a look. He told Homicide investigators that the

suspect stood roughly seven feet away, pointing a handgun at him. Deputy C fired four rounds, striking the suspect twice (once in the side and once in the back), fatally wounding him. Deputies later found the suspect's gun sitting in an adjacent trash dumpster.

The location of the gun, the location of the suspect's bullet wounds, and inconsistencies among the deputies' account of events raised a suspicion, shared by LASD members we consulted, that Deputy C fired his gun when the suspect was actually turned away tossing his gun in the dumpster. Surprisingly, the LASD did not order a complete Internal Affairs investigation but rather simply deemed the shooting within policy and closed the books.

But even if Deputy C's version of events is correct, the shooting remains problematic. Best practice requires that if a fleeing suspect climbs over a wall or fence and there is a possibility the suspect is armed, the deputy should end the foot pursuit in favor of setting up a containment. In scaling a fence or wall in pursuit of a suspect in any event, deputies should not go directly behind the suspect but rather go over a different portion of the wall or fence. Deputy C never was held to account for why he did neither.

On the other hand, one of the other pursuing deputies, Deputy D, deliberately opted not to engage the armed suspect at close quarters. Although he answered somewhat defensively when asked by Homicide investigators why he was near the back of the pack of deputies in pursuit, Deputy D in fact acted wisely:

“I would like to say not the last guy but – ... I slowed down a little bit making the corner ‘cause I – ... what I’m thinking – you know – is we had Aero up in the sky. You know. And this guy can’t get too far. You know. This guy was gonna’ get sunk anyway ... I was trying to get the guy ... But I wasn’t gonna’ get myself killed chasing him.”

#### *6. Divided Attention or Poor Communication Among Deputies.*

In a number of the shooting cases we reviewed, even where deputies stayed together, they nonetheless failed to act as a team. Typically these incidents arose

when the deputies encountered multiple suspects or multiple bystanders. The deputies often failed to communicate their intentions to each other and thus pursued individual, and sometimes conflicting, strategies.

### *7. Pursuing Without A Plan.*

A 1997 FBI study demonstrated that many police officers who were assaulted or killed by a suspect during a foot pursuit had formulated no plan other than to chase and try to catch the suspect.<sup>10</sup> This research accorded with the LASD cases we reviewed. In contrast, in the few cases where deputies did have a plan — as occurred during one extremely well-conducted foot pursuit by members of the Special Enforcement Bureau (SEB) — the deputies not only minimized the risk to themselves, but also maintained enough distance between themselves and the suspect so that when the unexpected did occur, they did not panic and fire in an uncontrolled manner. The facts in the SEB matter are set forth in Case Study No. 8.

### Case Study No. 8

The LASD's North Regional Surveillance and Apprehension Team (NORSAT) had tracked an armed robbery suspect to a hotel room in Arcadia. NORSAT called SEB to set up a containment of the area before NORSAT served an arrest warrant on the suspect, who was believed to be armed and dangerous.

As SEB personnel were taking up positions around the hotel, the suspect, who was sitting in a courtyard smoking a cigarette, spotted the officers and ran into his room, where he armed himself. He then ran through the hotel complex and jumped over a wall into a wash behind the hotel grounds.

SEB pursued the suspect, albeit at a distance of roughly 50-75 yards. As

<sup>10</sup> Pinizzotto, Davis, and Miller, III, *In the Line of Fire: A Study of Selected Felonious Assaults On Law Enforcement Officers*, (FBI 1997). See also Bohrer, Davis, and Garrity, Jr., *Establishing A Foot Pursuit Policy: Running Into Danger*, FBI Law Enforcement Bulletin 11 (May 2000) [hereinafter, *Foot Pursuit Policy*].

the pursuit unfolded, the pursuing officers used their handheld radios to great advantage to prevent others in the perimeter from inadvertently crossing the suspect's path and thus stumbling into a firefight.

The pursuing officers' decision to stay well behind the suspect proved judicious. Twice, the suspect twice turned and fired at the SEB officers but, because they were roughly 75 yards away, the rounds fell short and wide of their mark. In addition, the SEB personnel, who were armed with long-range AR-15 rifles, continued to pursue (and close the distance only very gradually) by running in a zig-zag pattern to make themselves difficult targets. Ultimately, one SEB officer returned fire on the run, striking the suspect. The suspect then ran into a dark drainage tunnel running underneath an intersection.

The SEB then formulated a plan to extract the suspect from the tunnel. First, they covered both entrances to prevent the suspect's escape. Second, they gave several verbal commands for the suspect to surrender. Third, they radioed for a K-9 assistance. Fourth, they tossed two "flashbang" devices to see whether the suspect would react to them. Finally, when it appeared that the suspect was injured and perhaps immobile, they used large, bullet-proof shields to protect the officers who entered the tunnel and extracted the suspect who, as it turned out, was dead.

## *II. The LASD Conducts Too Limited a Review of Foot Pursuits*

Foot pursuits are reviewed and debriefed at the station where they occurred. At best, the deputies can be counseled for poor tactics or praised for good tactics. Until recently, the LASD additionally required supervisors at each station to complete a "Foot Pursuit Evaluation Form" every time a deputy reported a pursuit for purposes of review by the deputy's supervisors and captain for compliance with policy and sound tactics. The station was then to send a copy of the form and any accompanying materials (collectively, a "package") to Training for further study and evaluation.

That review by Training never took place. When we asked Training to account for the lack of feedback, we learned that despite having “boxes and boxes” of foot pursuit packages, they had never been reviewed. The packages were literally collecting dust in a storage room.

### *III. Two Models to Consider: Collingswood and Las Vegas*

An effort to obtain model foot pursuit policies from other major law enforcement agencies led to disappointing results. Most whom we contacted did not have a formal policy, even one as watered down as the LASD’s FOD 97-7. The Los Angeles Police Department, for example, relies exclusively upon a training bulletin issued in 1989, which, like FOD 97-7, merely provides a list of recommended tactics for undertaking pursuits.

Edward Davis, an instructor at the FBI Academy in Quantico, Virginia, confirmed that most agencies — wrongly in his view — lack a meaningful foot pursuit policy. Two years ago, Mr. Davis co-authored an article lamenting the lack of foot pursuit policies and praising a relatively revolutionary policy promulgated by a small police department in Collingswood, New Jersey.<sup>11</sup>

#### A. The Collingswood foot pursuit policy

In 1997, the Collingswood PD noted during an annual safety review that a number of its officers had suffered injuries that year as the result of foot pursuits. Further study of previous years yielded similar patterns. More to the point, the Collingswood PD was facing a serious problem as its personnel were being lured by local drug dealers to pursue them on foot into abandoned homes that had been booby-trapped.

In response, Collingswood Chief Thomas Garrity authored a foot pursuit policy, effective January 1, 1998, that sets forth bright line rules. It is set forth in full at the conclusion of this Chapter. The policy expressly requires a police

<sup>11</sup> Bohrer, Davis, and Garrity, Jr., *Establishing A Foot Pursuits*, *supra*, n. 11 at 11. Enforcement Bulletin 11 (May 2000)

officer to broadcast for assistance before engaging in a foot pursuit. If the officer is unable to establish communication with the dispatcher, he cannot engage in the foot pursuit at all, unless the suspect presents an immediate danger to the safety of others. The goal is to place a supervisor, typically a sergeant, in command of the pursuit. Although the LASD generally adheres to a similar policy regarding vehicle pursuits, it has yet to so insist with foot pursuits.

The Collingswood policy plainly states that certain types of pursuits, absent extraordinary circumstances, are flatly prohibited. Thus, police officers there may not engage in pursuits:

1. alone into buildings, confined spaces (e.g., fenced-in areas), or wooded areas;
2. into such areas without (a) a coordinated tactical entry with at least one other officer; and (b) express authorization from a supervisor;
3. where the officer loses sight of the suspect and is unsure of his or her whereabouts;
4. where the officer is disarmed or loses possession of his or her weapon; and
5. when the officer believes the risk to other police personnel or the public outweighs the need for immediate apprehension.

Next, the Collingswood policy makes clear when a pursuit already in progress must come to an end. Thus, absent special circumstances, Collingswood officers must end a foot pursuit:

1. when instructed to do so by a supervisor;
2. when the officer believes the risk to other police personnel or the public outweighs the need for immediate apprehension;
3. if the suspect's identity has been established to the point where he or she could be apprehended later (and the suspect does not present an immediate danger to others);
4. if the suspect's location is no longer known;

5. if there is a person injured and there are no other police or medical personnel on the scene to render assistance;
6. if the pursuing officers lose radio contact with the station; or
7. if the officers learn of any development which substantially increases the risk to public safety if the pursuit continues.

Finally, the Collingswood policy mandates that each foot pursuit be reviewed carefully for policy and tactical concerns and that each police officer attend in-service training on foot pursuits twice a year.

Significantly, in the five years this policy has been in effect, officer injuries in Collingswood have declined, while the number of fleeing suspects apprehended has not gone down. The result is not surprising. Collingswood has not told its personnel to let running suspects go. Instead, it has required them to replace high-risk, tactically-unsound pursuit techniques with others, such as containment and assistance from aero or K-9 units. Collingswood reports that its personnel are using their radios far more often and, as a result, are able to catch most suspects by means of a containment. Finally, and no less significantly, the force has accepted the new policy. The Collingswood policy is reproduced at the end of the Chapter. The LASD would do well to use the Collingswood policy as a starting point for its own foot pursuit policy.

#### B. Las Vegas, Nevada: Realistic Training

Although the Las Vegas Police Department (LVPD) has not yet issued a firm foot pursuit policy like Collingswood, it nonetheless makes foot pursuits a top priority, choosing instead to focus on increasing real-life training to its force. Most impressive to date has been the LVPD's Foot Pursuit Simulator Course, which tests officers' ability to apprehend fleeing suspects after a foot pursuit in which the officer is stressed and out of breath.

Unlike most training offered by the LASD, the LVPD requires its personnel to undergo physical training in full uniform. In the Simulator Course, the police officers supplement their uniform with boxing headgear, a mouthpiece,

gloves, and a rib protector. They are given a foam straight baton and a simulated flashlight (same size and weight). The recruit is required to sprint up a small hill, leap full stride over the hood of a car, and then run into a boxing ring. Inside the ring is a training officer (wearing a fully-padded “Redman” suit) who is instructed to play the role of a suspect who has decided to fight rather than surrender or flee. From that point forward, there are no rules: The officer and training instructor are free to use whatever tactics or weapons they have at their disposal to win the fight.

The results from one recently-audited run of the course were revealing: Within minutes, 109 of the 112 fights ended up with the officer and the instructor on the ground. In a majority of the fights, the pursuing police officer wound up on his back, in a position to be seriously injured or mortally wounded. The LASD should also consider tailoring its training, as the LVPD had, to deal with these harsh realities of foot pursuits.

In so doing, the LASD does not necessarily have to start from scratch. In the past, Laser Village instructors required some deputies to sprint laps around the parking lot before entering a shooting simulation trailer. Ironically, the exercise fell out of favor because the deputies were too tired to fire proficiently. As one instructor put it, “The ones who weren’t falling out [from exhaustion] went in the trailer and performed just terribly.”

Similar exercises would help underscore the dangers of foot pursuits. As part of their initial and ongoing training, deputies should be required to run foot pursuits before being called upon to use physical force or fire their weapons. Deputies would accordingly experience firsthand how even being slightly winded from a foot pursuit can significantly impair their shooting abilities, as well as their ability to make sound decisions about whether to shoot in the first place.

Indeed, this view was echoed by several LASD officials we interviewed, including Compton Station Lieutenant Shaun Mathers, who over the years had developed his own foot pursuit training scenarios for deputies to run during in-



service training at his station. Lt. Mathers is convinced that such training for deputies is essential, observing that, “If they’re going to fail, I want it to happen at the station, not in real life.”

#### *IV. Recommendations*

Despite apparent recognition by some within the LASD that FOD 97-7 has failed to curb high-risk foot pursuits, we are not yet convinced that the LASD has the institutional will to deal with the problem adequately. First, a blue ribbon LASD working group formed in 2001 (Blue Ribbon Group) to suggest ways to reduce shootings found that their tough recommendations regarding foot pursuits became more and more diluted as time passed. Ultimately, the Blue Ribbon Group’s final report contained no recommendations regarding foot pursuits.<sup>12</sup>

Meanwhile, another committee has been formed specifically to study problematic foot pursuits. Under the direction of Commander Rick Castro, the new committee, called the Force Training Unit Committee (FTU Committee) has been asked to propose new and potentially sweeping changes to FOD 97-7 that will substantially reduce the number of high-risk foot pursuits. We met with Commander Castro and several of the committee members. We were impressed by their tactical insight, their candor, and their sincere desire to reduce the number of reckless foot pursuits. We were surprised to find, however, that the FTU Committee were unaware that the Blue Ribbon Group had initially considered and made recommendations concerning foot pursuits as they related to shootings. Nor did the FTU Committee know that the initially tough recommendations of the Blue Ribbon Group got watered down during the review process. Similarly,

<sup>12</sup> At times, persons within the LASD have argued to us that foot pursuits are necessary because the general public expects them and believes that they are a key law enforcement tool. We find the reasoning off-kilter. If public expectations are conditioned by false portrayals of police work in television shows, movies, and newscasts featuring chases, it is the obligation of law enforcement to correct the misimpressions; not to perpetuate dangerous and foolhardy foot pursuits because a misguided public has come to expect them.

the Blue Ribbon Group did not know that the FTU Committee was taking up the issue of foot pursuits anew. The FTU and the Blue Ribbon Group should meet and discuss foot pursuits together.

A rigorous, proscriptive policy, based perhaps on the Collingswood model, should be adopted. In particular, the LASD should plainly state that:

1. one-deputy foot pursuits of suspects known or believed to be armed are absolutely forbidden from the onset, unless the suspect presents an *imminent* threat of serious harm to others;
2. foot pursuits in which deputies have lost sight of a fleeing suspect must be terminated in favor of containment efforts; and
3. all pursuits must be preceded by a detailed broadcast for assistance and acknowledgement that the pursuit is being monitored.

The LASD must teach and train the new policy effectively, using the Las Vegas and Lt. Shaun Mathers models as templates. Finally, the LASD must stand firmly behind the new policy and impose adequate discipline when its mandates are disregarded.<sup>13</sup> There is nowhere to go but up: A carefully designed, proscriptive policy will reduce the number of unnecessary and preventable shootings and save lives. Importantly, the lives saved will include those of the men and women who serve in the LASD.

<sup>13</sup> The LASD must be vigilant to test and question transparently self-serving attempts by deputies to get around the rules by asserting that they were “pursuing to contain.” In our review, we found that in most of the instances in which the excuse was used, the claim was simply not credible. Indeed, in many of these instances, the deputies failed to broadcast their pursuits and thus could not have possibly been chasing as part of a containment attempt.



## COLLINGSWOOD NJ POLICE DEPARTMENT FOOT PURSUIT POLICY

The foot pursuit of a fleeing person(s) is a very serious matter. When a police officer initiates a foot pursuit, he/she must consider many factors such as the nature of the offense or call, the area and location involved, communications, physical dangers, physical condition and abilities, the safety of the officer and the safety of the general public. Little if any formal training has been established in the area of foot pursuits. This policy is an attempt to establish formal guidelines to assist the officer in dealing with foot pursuits and the dangers associated with these pursuits.

While the risks involved with foot pursuits towards the general public is much less than in vehicle pursuits, the inherent risks to the officer is somewhat greater. The majority of foot pursuits involve a one on one situation with the officer and violator, often in isolated or unfamiliar surroundings. In addition, the officer is more likely than not, placing himself in a dangerous situation by following a fleeing person into a wooded area, building, structure, confined space or other isolated area. The officer is often less aware of his exact location, as he is focused on the fleeing person, making it difficult for other officers to locate the officer to render assistance in a timely manner. Numerous case studies exist involving officers being seriously injured during a foot pursuit, radioing for assistance and responding officers being unable to locate them immediately. In addition, statistics and case studies show a high rate of officers being assaulted, seriously injured or killed during foot pursuits.

A police officer has the authority, at all times, to attempt the stop of any person suspected of having committed any criminal offense, violation or traffic violation. It is clear that while it is the officer who initiates the stop, it is the violator who initiates the foot pursuit. The officer's decision to pursue should always be undertaken with an awareness of the degree of risk to which the law enforcement officer exposes himself and others. The officer must weigh the need for immediate apprehension against the risk created by the foot pursuit.

## *Procedure*

The primary purpose of this policy is to secure a balance between the protection of the lives and safety of the public and police officers, and law enforcement's duty to enforce the law and apprehend violators. Since there are numerous situations which arise in law enforcement that are unique, it is impossible for this policy or any standard operating procedure to anticipate all possible circumstances. Therefore, this policy is intended to guide a police officer's discretion in matters of foot pursuit.

This policy has been formulated to provide minimum requirements to direct the COLLINGSWOOD Police Department officer's activities in this very critical area of police practice. This policy shall serve as a guideline and will introduce a concept of "TEAM" cooperation in apprehending a fleeing person. It is the goal of this policy to help the officer in the event of a foot pursuit and to also minimize the dangers associated with foot pursuits.

Deciding whether to pursue a fleeing person is a critical decision made by law enforcement officers daily. It is a decision which must be made quickly and under difficult, often unpredictable circumstances. In recognition of the potential risk to public safety and officer safety, no officer or supervisor shall be criticized or disciplined for a decision not to engage in a foot pursuit or to terminate an ongoing foot pursuit based on the risk involved. Likewise, police officers who conduct pursuits consistent with this policy will be strongly supported by law enforcement community in any subsequent review of such actions.

## *Definitions*

### A. Foot Pursuit

The physical attempt by an officer(s) to detain, arrest or otherwise take physical custody of a person who attempts to flee on foot, without the aid of a vehicle or other motorized device.

B. Law Enforcement Officer

Any person sworn to uphold the law who is certified by the Police Training Commission and who is currently employed by a public safety agency.

C. Supervisor

A police officer who, by virtue of rank or assignment, is responsible for the direction or supervision of the activities of other police officers.

D. Violator

Any person who a police officer reasonably believes: (1) has committed an offense enumerated in Section I, A of this policy or (2) poses an immediate threat to the safety of the public or other police officers.

E. TEAM Concept

The practice of having two or more officers working in unison to apprehend a fleeing person on foot, working together via direct or indirect communications to coordinate their efforts, location and status.

## *I. Deciding Whether to Pursue*

A police officer has the authority, at all times, to attempt the stop of any person suspected of having committed any criminal offense, violation or traffic violation. It is clear that while it is the officer who initiates the stop, it is the violator who initiates the pursuit. The officer's decision to pursue should always be undertaken with an awareness of the degree of risk to which the law enforcement officer exposes himself and others.

A. Authorization of Pursuit

1. A police officer may pursue

- a. When the officer reasonably believes that the violator has committed a Criminal Offense, Violation or Motor Vehicle Violation that would permit the officer to detain, arrest or otherwise take custody of the violator.

- b. When a police officer reasonably believes that the violator poses an immediate threat to the safety of the public or other police officers.

B. In the event that a foot pursuit is initiated, an officer must still consider the following factors:

1. Likelihood of successful apprehension.
2. Whether the identity of the violator is known to the point whether later apprehension is possible.
3. Degree of risk created by pursuit:
  - a. Nature of the area: residential, commercial, school zone, open highway, etc.
  - b. Condition of the structures, such as abandoned or condemned buildings.
  - c. Population density and volume of pedestrian traffic.
  - d. Environmental factors such as weather and darkness.
4. Police Officer characteristics:
  - a. Physical conditioning and abilities
  - b. Familiarity with area
  - c. Communications

C. Terminating the pursuit

1. The pursuing officer shall terminate the foot pursuit:
  - a. If instructed to do so by a supervisor, or
  - b. If the officer believes that the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the violator, or
  - c. If the violator's identity is established to the point where later apprehension may be accomplished and where there is no immediate threat to the safety of the public or police officers, or
  - d. If the violator's location is no longer known, or

- e. If there is a person injured during the foot pursuit and there are no police or medical personnel able to render assistance, or
  - f. If loss of communications occurs, or
  - g. If advised of any unanticipated condition, event or circumstance which substantially increases the risk to public safety inherent in the pursuit.
2. When the pursuing officer terminates the pursuit he will immediately notify communications of such, giving his location of termination.

## *II. Role of the Pursuing Officer*

- A. The decision to initiate and/or continue a pursuit requires weighing the need to immediately apprehend the violator against the degree of risk to which the officer and others are exposed as a result of the pursuit.
- B. Once the pursuit has been initiated, the primary officer must notify communications and a superior officer providing as much of the following information as is known:
  1. Reason for the pursuit.
  2. Direction of travel, area designation and/or location of roadway.
  3. If known, the identification of the violator, or a description to include physical features, clothing, possible weapons and other identifying characteristics.
  4. Number of fleeing violators.
  5. Other information that may be helpful in terminating the pursuit or resolving the incident.



C. The primary officer will immediately, directly or indirectly via communications, coordinate with secondary officers to establish a perimeter in the area to contain the violator, following the below procedures:

1. The primary officer should not attempt to overtake the fleeing violator, rather keeping him in sight until a proper perimeter can be established by secondary units, employing the “TEAM” concept to apprehend the violator.
2. In the event that a violator enters into a building, structure, confined space, wooded area or otherwise isolated area, the primary officer shall radio his location, standing by on the outside of the structure, building, confined space, wooded area or otherwise isolated area, awaiting the arrival of secondary units to establish an outer perimeter around the area.

OFFICERS ARE NOT TO PURSUE VIOLATORS INTO ANY OF THE ABOVE AREAS ALONE, WITHOUT AN ESTABLISHED PERIMETER AND AUTHORIZATION BY A SUPERVISOR.

3. In the event that a violator is confined within one of the above areas and is not compliant, consideration should be given to the use of specialized units such as a K-9, or when warranted, such as in suspected armed violators, the use of the Zone #1 Critical Response Team, as determined by a supervisor, to bring about the apprehension of the violator.

### *III. Foot Pursuit Restrictions*

A. No pursuits will be conducted

1. Into buildings, (vacant or occupied), structures, confined spaces, or into wooded areas or otherwise isolated locations, without using the “TEAM” concept and authorization by supervisor, or in the event of extreme urgency, such as the immediate threat to the safety of officers or others.
2. If the officer believes that the danger to the pursuing officers or the public

- outweighs the necessity for immediate apprehension.
3. If the officer is disarmed or losses possession of his/her weapon.
  4. If the officer losses contact with communications for any reason.
  5. If the officer losses visual contact with the violator and is unsure of his whereabouts or continued direction of travel, commonly known as “running blindly” after the violator.

#### *IV. Role of the Supervisor*

Upon being notified or becoming aware of the foot pursuit, the supervisor shall decide as quickly as possible whether or not the foot pursuit should continue.

- A. The supervisor shall permit a foot pursuit to continue if
  1. There is a reasonable belief that the violator has committed a Criminal Offense, Violation or Motor Vehicle Violation that would permit the officer to detain, arrest or otherwise take custody of the violator, or
  2. There is a reasonable belief that violator poses an immediate threat to safety of the public or other police officers.
- B. The supervisor shall order a foot pursuit terminated at any time if he or she concludes that the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the violator.
- C. The supervisor shall ensure, for the duration of the foot pursuit, that this policy and agency procedures are followed by all officers.

## *V. Communications Center Responsibilities*

- A. Upon notification that a foot pursuit is in progress, communications personnel shall immediately advise a field supervisor of essential information regarding the foot pursuit (when possible).
- B. Communications personnel shall carry out the following activities and responsibilities during the pursuit:
  - 1. Receive and record all incoming information on the foot pursuit and the pursued;
  - 2. Control all radio communications and clear the radio channels of all nonemergency calls;
  - 3. Obtain criminal record and warrant checks of the suspects;
  - 4. Coordinate and dispatch backup assistance and air support units under the direction of the field supervisor;
  - 5. Notify neighboring jurisdictions, where practical, when the foot pursuit may extend into their locality; and
  - 6. Provide copy of communications tape to the Chief's Office.

## *VI. Reinstating Pursuits*

- A. Reinstatement of any previously terminated pursuit shall be undertaken consistent with the authorization criteria for originally initiating a pursuit.

## *VII. Inter-Jurisdictional Pursuits*

- A. The original pursuing jurisdiction shall provide timely

notification of a foot pursuit in progress to any other jurisdiction into which the pursuit enters.

### *VIII. Foot Pursuit Review*

- A. Foot Pursuit incidents will be reviewed for compliance with applicable policy and department operating procedures.
- B. Foot Pursuit incidents will also be reviewed to identify the need for remedial training of individual officers or specific areas of emphasis in agency-wide training regarding foot pursuit situations and the application of foot pursuit policies and procedures.

### *IX. Training*

- A. All officers will attend in-service foot pursuit training twice annually. This in-service training shall be held simultaneously with use of force training which is provided in the firearms requalification process.
- B. Foot pursuit training shall consist of knowledge of applicable statutes, familiarization with police foot pursuit policy and departmental procedures, and decision making skills.



## *Introduction*

The Personnel Performance Index, or PPI, is the LASD's early warning system that tracks detailed information regarding uses of force, citizen's complaints, administrative investigations, civil claims, civil lawsuits, and discovery requests. During the 1990's, we frequently commended the LASD for using this powerful instrument to identify actual and potential police misconduct. We have not, however, in the last few years had occasion to look deeply into how the PPI is faring and is being utilized.

In the investigation for this Report, we found that the PPI has been undervalued. The reports and data sent to it are often sloppy and error-ridden. Because of unresolved questions about what constitutes a citizen's complaint, there are inconsistencies in what gets reported. Because policy has remained ambiguous, artificial lines have been drawn ad hoc which exclude many excessive force complaints that should be investigated and documented as such. There are long delays in entering information into the computer database. There is widespread ignorance about what the PPI can do among those who should be using it the most — captains and lieutenants. Enterprising individuals have created makeshift or alternative databases because they have not been instructed on the PPI's capabilities.

In the early years, the PPI was the centerpiece of an effort to identify personnel and patterns that needed attention and correction. Today, its resources are largely untapped. Whereas in the earlier period, the Undersheriff and Assistant Sheriff would receive and act upon a report which monitored whether captains and other LASD managers did (or did not) log onto the PPI and use it, senior management today pays less attention to making sure it is being used as intended. Consequently:

1. The rejection rate on citizen's complaint packages sent to the PPI currently ranges from 50 to 73 percent, accordingly to internal LASD quality control

- audits. Although some errors are relatively trivial, most involve serious omissions or mischaracterizations of the nature of the citizen's complaint.
2. There are inconsistencies and ambiguities in the rules for taking citizen's complaints, pointed out years ago, that have never been addressed and resolved. Although we have no reason to suspect that there is any coordinated effort to distort the data going to the PPI, the general tenor of the errors and inconsistencies is to call it in favor of not recording some citizen's complaints or understating the seriousness of others.
  3. Currently, Use of Force reports logged into the PPI occasionally lack incident descriptions entirely. Many reports that do have a synopsis lack meaningful detail.
  4. It often takes about six months for crucial data on citizen's complaints to appear on the PPI, meaning that it is at best half a year behind the times. Other law enforcement agencies with similar systems do not tolerate delays in excess of a month. The unit responsible for maintaining quality control on citizen's complaints and use of force reports is severely understaffed, with only one full-time employee responsible for reviewing documentation on the 5,000-8,000 complaints or commendations that pour in each year.

If the PPI were being used as it should, as a crucial source of data that executives and managers consult with frequency and must therefore be up to date and accurate, these lapses would not be tolerated. Put another way, the PPI itself remains a highly useful tool in the abstract for identifying and managing risk, but we found that its use within the LASD currently is beset with serious problems.

## *I. Problems Relating To Service Comments Reports (SCR's)*

### *A. Overview Of The SCR Process*

LASD policy requires that every citizen's complaint or commendation be

recorded on a Watch Commander Service Comment Report (“SCR”) as the first step in Department review.<sup>1</sup> In 1992, in connection with the introduction of the SCR, then-Sheriff Block explained why it was important to accurately record citizen’s complaints:

“[Accurate and complete recordkeeping will] enable the Department to establish the true number of commendations and complaints received from the public, compare the ratio of complaints and commendations received by similar units and by the entire Department, determine the percentage of overall complaints that are frivolous/nuisance or linked to litigation, track frequent complainants countywide, monitor litigation trends, identify training needs, recognize developing at-risk behavior, establish the need for counseling, and enhance pro-active supervision. The more complete and accurate the information is for us to access, the more effective we can be in accomplishing our goals.” (Sheriff’s Bulletin No. 417 (April 21, 1992).

Upon receiving a citizen’s complaint, the watch commander logs preliminary data and begins an investigation of the complaint, the results of which are given to the unit captain, who determines if the complaint has any merit and, if so, what action should be taken. Once the captain acts, the investigative file, known as an SCR Package, is sent to the Central Custodian of Records Unit, or CCRU, where it is reviewed for completeness and accuracy. If complete and accurate, key details from the package are entered into the PPI.

As Table 1 indicates, the citizen’s complaint process has created a substantial workload for the Department. Since the system was first put into place just under a decade ago, the LASD has received over 70,000 citizen complaints and commendations, with an average of 5,000-8,000 per year.

<sup>1</sup>The SCR divides comments into three categories: (1) Commendations; (2) Service Complaints (complaints about response times, traffic citations, and LASD policies or practices); and (3) Personnel Complaints (complaints alleging officer misconduct such excessive force, discourtesy, or false imprisonment).



**Table 1: Service Comment Reports By Year**

Comments based upon actual or alleged conduct occurring within a given calendar year.

Year	SCR – Commendation	SCR — Personnel Complaint	SCR — Service Complaint	Annual Total
1992	1328	1553	685	3566
1993	2665	2659	734	6058
1994	2620	2153	732	5505
1995	2584	2556	941	6081
1996	3633	2942	1512	8087
1997	3842	2704	2239	8785
1998	3727	2496	2275	8498
1999	3294	2153	1570	7017
2000	3137	1999	1241	6377
2001	3228	2349	1323	6900
2002	3133	2184	1081	6398
<b>11-Year Total</b>	<b>33,191</b>	<b>25,748</b>	<b>14,333</b>	<b>73,272</b>

Source: LASD Central Custodian of Records Unit (CCRU)

In Table 2, we display the breakdown of citizen’s complaints alleging officer misconduct with particular attention to the percentage of complaints in any given year alleging excessive force. The trend has generally been downward, stabilizing in recent years in the five-to-six percent range. Last year, however, it rose to 7.8%, the highest it has been since 1993.

**Table 2: Breakdown of Service Comments Alleging Officer Misconduct**

Year	SCR Personnel Complaint (Total # of SCRS Processed)	Allegations of Criminal Conduct	Allegations of Discourtesy	Allegations of Dishonesty	Allegations of Unreasonable Force	Allegations of improper Tactics	Allegations of Improper Detention, Search or Arrest	Allegations of Neglect of Duty
1992	1553	41	826	68	160 (10.3%)	288	47	218
1993	2659	66	1238	82	256 (9.6%)	411	83	258
1994	2153	54	1057	63	161(7.5%)	312	50	196
1995	2556	74	1188	80	193 (7.6%)	311	274	237
1996	2942	74	1369	99	188 (6.4%)	290	502	251
1997	2704	43	1246	53	150 (5.5%)	240	453	235
1998	2496	60	1040	49	158 (6.3%)	222	377	201
1999	2153	52	971	69	140 (5.5%)	141	287	176
2000	1999	36	922	51	117 (6.3%)	167	302	159
2001	2349	14	1074	58	154 (6.6%)	176	337	201
2002	2184	9	989	47	166 (7.6%)	140	176	192

Source: CCRU

## B. Problems With The SCR Process.

### 1. SCR Data Is Not Timely Entered Into The PPI.

Upon first visiting the CCRU, we found a small, dedicated, hardworking, but overwhelmed staff amidst a pile of boxes containing SCR Packages that had been sitting, unreviewed, for months. CCRU reports that, at best, it takes 5.5 months before the details of a citizen’s complaint make their way into the PPI. If there are problems with the underlying SCR documentation — and there usually are — the delay can be as long as six to seven months. Of particular concern is CCRU’s perception that some stations actively resist CCRU’s requests to provide full and accurate information.<sup>2</sup> This backlog results in key information regarding officer conduct remaining unrecorded and hence unavailable for analysis.

<sup>2</sup> Currently, only one of the LASD’s three Field Operations Regions — Region I — is doing a consistently good job policing the quality and timeliness of investigations of citizen’s complaints.

The cause is understaffing. Currently, there are ten unfilled budgeted positions in CCRU, and the unit is spread so thin that only one of its employees, among other duties, has time to review the SCRs for completeness and accuracy. In contrast, other large law enforcement agencies with similar early warning systems employ at least two full-time employees to perform this essential quality control function — even though the case load of citizen’s complaints is less substantial than the LASD’s. According to these agencies — including Miami-Dade, Pittsburgh, and Tampa, among others — such resources are a priority because they consider prompt data review and input a *sine qua non* of an early warning system.

Indeed, the LASD’s 5.5-month time lag puts it in last place. Among agencies polled with at least 1000 officers, we found that the process took about a month to complete: (1) roughly 21 days to complete and act upon the investigation of misconduct and (2) just under 10 days for the results to be input into the early warning system.<sup>3</sup> We recommend, therefore, that two full-time employees be devoted to reviewing completed SCR packages with the goal of reducing to ten days the amount of time necessary to receive, examine, correct if necessary, and then input a completed SCR file. We also recommend that the vacant budgeted positions in the CCRU be quickly filled.

#### C. More than 50 percent of SCR Packages Have Serious Errors.

Recent surveys taken by CCRU staff reveal that, within the past year, their SCR rejection rate has ranged from 53-70 percent depending on the month.

<sup>3</sup> An official at one law enforcement agency outside of California quipped that a five-plus month delay converted the PPI from an “early” warning system to an “eventual” warning system. The same individual suggested, “maybe the [LASD]’s brass is saying, ‘All right, we have this Edsel we inherited [i.e., the PPI] from the prior regime, and we have to keep it. But tell you what, let’s not spend any money to keep it up — no oil changes and we’ll keep the fuel gauge just above E.’” Similar cynicism has been expressed within the LASD. One long-term employee who has put in many hours connected to the PPI said, “We have this system to keep you happy and the Board of Supervisors happy but we really don’t use it for ourselves the way we could.” Another employee agreed: “It’s a sad truth. We get all these numbers but we don’t do anything with them.”

This rejection rate is higher than rejection rates of 10-20 percent reported by the other law enforcement agencies we surveyed.

Our audit of the files confirmed CCRU's observations that:

1. A frequent error is the mischaracterization of citizen's complaints accusing officers of individual misconduct ("Personnel Complaints") as complaints about general LASD policy or practices ("Service Complaints"). Personnel Complaints show up on an officer's PPI Profile. Service Comments do not.
2. Also problematical is the failure to write up allegations that constitute serious misconduct in favor of recording allegations of less serious activity. For example, where a citizen complains that an officer cursed and pushed him around, the SCR form might identify the allegation as one of "Discourtesy" and fail to note that "Unreasonable Force" was also alleged.
3. Stations erroneously list officers as "witness" officers rather than as the "subject" of the allegation.
4. Also of concern is a failure to investigate and identify officers accused of misconduct when the complainant does not know the officers' names. As one CCRU employee put it, "[W]hen someone complains about damage done to someone's living room while running a search warrant, all of sudden we get these SCR's that say, "four unidentified officers." Well, if there were only four officers who served the warrant, I think they should know who these "unknown" officers are, don't you think?"

These are not new problems — they surfaced and were commented upon more than eight years ago. *See, e.g., Third Semiannual Report* at 51 (December 1994) (discussing "under-reporting of excessive force allegations due to mistaken designations of the nature of the complaint.")

Our recommendations to cure these problems are:

1. The Sheriff should make clear to captains at all stations that a 53-70 percent rejection rate for SCR's is not acceptable and hold captains accountable for ensuring that their staff complete the requisite forms accurately and perform the investigation thereon with dispatch.
2. There should be shorter deadlines for the completion and correction of SCR documentation. Currently, the LASD gives stations 30 days to correct errors or omissions in their SCR packages, and many stations, according to the CCRU, fail to observe this requirement. In contrast, the Tampa Police Department requires stations to submit their corrections within three business days. Tampa's Internal Affairs Bureau reports that stations comply with this requirement better than 90 percent of the time.

#### D. Substantial Disparities Remain Regarding When SCR's Should Be Completed In The First Place.

The LASD has not issued concrete guidelines on what to do when a complaint comes from an arrestee. This is a longstanding problem, and its consequence is inconsistency and an under-reporting of the number of citizen complaints.

##### *1. Inconsistencies Regarding Whether to Record Complaints of Excessive Force.*

The LASD Manual of Policy and Procedures ("Manual") requires watch commanders to log an SCR every time they receive a complaint from a member of the public.<sup>4</sup> For years, there have been unresolved inconsistencies regarding whether a complaint alleging excessive force must be recorded if the deputy himself has reported that he used force. Take this hypothetical: Deputy A reports to his supervisor that he used a leg sweep and arm lock to overcome a suspect's

<sup>4</sup> LASD Manual Section 3-04/010.05 states: "It is the Watch Commander's or Supervising Lieutenant's responsibility to hear every commendation or complaint, even if another Unit's personnel are involved, and to immediately complete a Watch Commander's Service Comment Report form." This rule stems from the April 1992 executive bulletin that stated, "A Service Comment Form must be filled out by the Watch Commander of the unit initially contacted, any time a commendation or a complaint is received." (LASD Sheriff's Bulletin No. 417 (April 21, 1992)).

resistance to arrest. The suspect independently tells the station's watch commander that Deputy A used force "for no reason whatsoever." Our view (shared by the CCRU, which reviews SCRs for quality control purposes) is that the suspect has made a complaint that he was the victim of unnecessary and hence excessive force by a deputy and thus the complaint should be recorded.

We gave the hypothetical to watch commanders at five different LASD stations. Three agreed that the complaint should be recorded; two disagreed, believing that LASD policy gave them "discretion" not to complete a citizen's complaint form.<sup>5</sup>

Those who disagree argue that the citizen's complaint was duplicative because Deputy A's reported use of force will be investigated by the watch commander, who will document the suspect's allegations and other evidence in a use of force package. They also argue that recording the citizen's complaint would constitute an unfair "double ding" on the officer's PPI history because the incident would show up twice: once as a reported use of force and a second time as a citizen's complaint.

We found no basis for this failure to record the complaint. If the complaint is not recorded, a supervisor will be unable to distinguish between Deputy X, who has used and reported force on ten occasions without generating one complaint that such force was excessive, and Deputy Y, who has used and reported force on ten occasions yet generated several allegations of excessive force. Although it may not be proper to draw the inference from these facts alone that Deputy Y is a problem, the fact patterns are obviously different, requiring further inquiry. The failure to record the citizen's complaint, even if the watch commander believes the use of force was lawful, creates a distorted and incomplete picture and does not alert management to the possibility of a problem.

<sup>5</sup> Neither of the two watch commanders, however, could point to any written policy or directive granting such discretion.

We recommend, therefore, that the Sheriff resolve this longstanding inconsistency and direct that both a citizen's complaint and a use of force package be completed in instances such as presented by the hypothetical. We also reiterate our prior recommendation that the Department issue detailed written guidelines regarding when and how to record and document citizen's complaints. In so doing, the Department will ensure that all officers are treated the same, regardless of their assignment.

2. *Inconsistency Regarding When A Claim Of Misconduct Is A "Public Complaint" Or An "Inmate Complaint."*

Another practice leading to an underreporting of citizen's complaints is that some stations deem certain complaints by an arrestee to be "inmate" complaints and not "citizen's" complaints. The distinction is important because inmate complaints are not part of the PPI, even though they are in theory kept and recorded elsewhere.

To be sure, there is a proper distinction between the two kinds of complaints. For example, assume that John Doe shows up at Lakewood Station one morning to complain about Deputy X, who he alleges wrongfully shoved him the night before. We know of no one in the LASD who would fail to deem this is a citizen's complaint. Next, assume that Jane Roe, who is serving time in the LA County Jail, complains about Deputy Y, who she alleges wrongfully shoved her into her cell the night before. Obviously, Roe is making an inmate complaint and an Inmate Complaint form, rather than a citizen's complaint form, should be recorded.

But it can become more complicated. Suppose John Doe made his complaint about what happened at his arrest two weeks later, when Doe is serving time in LA County Jail? Or suppose Doe makes his complaint after he was booked at the station but before he was transported to the jail? Or suppose Jane Roe makes her complaint by showing up at Lakewood Station the day after she is released from jail?

We urged the LASD to confront this problem and make appropriate policy in our **Eleventh Semiannual Report** four years ago:

“[C]urrent Department practice may be leading to a distortion in the kind and nature of complaints reported and may lead to an underreporting of citizen complaints about force. If a suspect arrested by a Century deputy complains of excessive force in connection with the arrest after he has been taken into custody, his complaint will not be treated as a citizen’s complaint but rather will be dealt with, if at all, as an inmate complaint. On the other hand, if the same suspect is released on bail and comes into the Century Station the next day to file a citizen’s complaint arising from excessive force in connection with his arrest, a service comment form [SCR] will be filled out. This practice has the effect, we believe, of reducing substantially the number of citizen complaints alleging excessive force in connection with arrests... This problem should be addressed and possible ambiguities in the current Department policies should be resolved in favor of at least counting and reporting all force-related complaints whether or not the specific circumstances under which the complaint was made triggered a service comment form.”  
(Eleventh Semiannual Report at 31-32.)

We again recommend that this open issue be resolved and a bright line rule be adopted: If the complaint alleges misconduct that occurred anytime prior to the arrestee’s transfer from the station, it is a citizen’s complaint and must be recorded, treated, and investigated as such. Once the arrestee leaves the station and is being transported to the Inmate Reception Center, any alleged misconduct that occurs thereafter shall be deemed an inmate complaint and be recorded, treated, and investigated as such. In either instance, it is not determinative when the complaint is made; rather, what is important is when the misconduct was alleged to occur: before or after the individual left the station.



## *II. Problems Relating To Use Of Force Reports.*

Use of Force Reports (UFRs) also were problematical. Although deputies are apparently reporting to their superiors when they use force, the investigative packages on those uses of force, from certain units were seriously late and hence could not be entered in a timely way into the PPI. More problematical, however, was that after a random review of 1,500 Use of Force Reports logged into the PPI, we found that there was often no description of the force used or that the description was too vague and general to be meaningful.

### **A. Stations Delinquent In Reporting Force For Entry In The PPI.**

Investigations of force and the completion of paperwork thereon for inclusion in the PPI have at times fallen seriously behind. This past summer, for example, the Century, Lennox, Compton, and East Los Angeles stations and the Twin Towers jail turned in more than 350 force packages that were long overdue, some dating as far back as 1996. There are large numbers of delinquent force packages from Men's Central Jail. There is a smaller, but still significant number of force packages due from the Court Services West. The PPI is thus not giving an accurate and timely read on the frequency force is used, by whom it is used, and whether the use of force is reasonable and necessary.

### **B. Poor Quality Control Re Use Of Force Descriptions.**

#### *1. Missing Synopses.*

A UFR must contain a synopsis that describes not only the force officers used, but also the circumstances leading up to the use of force. It is the responsibility of the station watch commanders to provide an adequate synopsis for entry into the PPI. In the early years, the percentage of force packages without synopses ranged from 52 to 96 percent. Since 2000, the numbers of force packages entirely lacking descriptions have dropped substantially.

Nonetheless, in the last two years, 6 percent and 4 percent respectively of the force packages had this omission. The breakdown is set forth in Table 7 below.

**Table 7: Use of Force Reports For Past Five Years**  
*(Reports logged within a given calendar year, regardless of date force was used)*

Time Period	Total UFRs	UFRs Without Synopses	Percentage of UFRs Without Synopses
Mar 27, 97 – Dec. 31, 1997	1,483	1,418	96%
1998	2,063	1,510	73%
1999	2,046	1,063	52%
2000	2,428	200	8%
2001	2,479	159	6%
2002	2,455	95	4%
Total	12,954	4,445	35%

When we looked at the numbers more closely, we found that a handful of units was responsible for most of the omissions. The biggest problem is at the Pitchess North jail facility, which failed to provide a synopsis for 16 of the 30 UFRs it filed in 2002 — a failure rate of 53 percent. Next was the Lancaster Station, which failed to provide a synopsis for 15 of the 53 UFRs it filed in 2002 — a failure rate of 28 percent. The North County Correctional Facility was a close third, with a failure rate of 27 percent. Palmdale and Carson Stations nearly tied for nearly fourth worst, with failure rates of 15 percent, and 14 respectively.

These numbers are hard to understand — it is puzzling why captains would sign off on force investigations that were silent regarding the circumstances leading to an officer’s use of force.

*2. Inadequate Synopses.*

Other use of force reports had only threadbare or conclusory descriptions. For example, in one UFR regarding a 2002 incident in which six officers used a significant amount of force on a suspect, the synopsis states only, “Significant

use of force, impact weapons, minor injuries.” There were no details about how the officers came into contact with the suspect, what the initial crime was, and other relevant detail.

Some stations provided more insufficient synopses than others. The following synopses were submitted by Century Station in 2002:

- “Ph (punches) and carotid restraint on assaultive 5150 [mentally disturbed] suspect”
- “Personal weapons on combative/assaultive narco susp.”
- “OC [Spray], TT [team takedown] of uncoop/resistive 415F [public disturbance] Susp.”

In none of these entries can one determine how the deputies came to encounter the suspect, what specific actions of the suspect gave rise to a need to use force, or whether options other than force were available.

In contrast, the following force packages submitted by Temple Station during roughly the same time period, were far more useful:

- “Deputy [A] made contact with susp who was crossing the street outside of the crosswalk. Deputy received consent to search the susp. Susp was unresponsive to being searched and seemed to be under the influence of a controlled substance. Susp was placed in the rear of the patrol car. Susp produced a baggie containing a substance and began to pour out the substance. Deputy attempted to stop this action by grabbing susp's hand. The susp pulled away. Susp kicked deputy on his thigh and lunged out of the radio car at him. Punches were thrown by both. Deputy took susp to the ground where he continued to struggle. Susp tried to strike deputy using his elbows. Deputy hit the susp several times in the head, using only his fist. Susp ceased his assault. Susp was handcuffed without further incident.”
- “A report of a robbery at gunpoint and a vehicle stolen was reported. Deputy [B] then initiated a pursuit of the stolen vehicle. The stolen vehicle sideswiped

vehicles but the pursuit continued. The vehicle stopped at the Westfield Mall where the susp, [A], ran from the vehicle. When susp exited veh, veh continued to roll and hit a parked veh. Deputies [B] and [C] initiated a foot pursuit through the mall. A containment was set up around the mall. Susp exited the mall where deputy [D] was holding a containment position. [D] ordered susp to the ground at gunpoint. Several deputies were involved in the arrest of the susp. Susp complained of pain to his left shoulder from a pre-existing shoulder injury. Susp refused to enter the patrol car. Deputy [D] climbed on top of the patrol car and attempted to push the susp's head down so that the susp would enter the patrol car. After this was unsuccessful, the susp was reasoned with. Susp then entered the car on his own power.”

### *III. Ignorance Re PPI's Capabilities*

A large number of lieutenants and captains, who are responsible for using the PPI to oversee their officers' performance, do not have a reasonable understanding of what reports and data the PPI can actually generate. One captain complained that the PPI was of limited use because it did not display details regarding citizen's complaints. This captain had not been instructed how to use the PPI to bring up those details, including the reports from the underlying investigation.

In another instance, an Operations Lieutenant was under the impression that the PPI only provided numbers: “The problem with PPI is that it gives us only the numbers. We need to look at what was said in a citizen complaint.” Upon checking the Lieutenant's computer, we determined that she mistakenly had restricted access which limited her ability to call up anything other than raw statistics. As an Operations Lieutenant, she was entitled to a level of access permitting her to see the full investigatory file on citizen's complaints. Unfortunately, the Lieutenant had never been so informed or taught how to

gain access to the desired information. In a similar instance, another Operations Lieutenant was under the erroneous impression that the PPI could not display whether an officer had used force within the past three months.

At three different stations, the lieutenants stated that they preferred their own “homegrown” systems based upon WordPerfect tables or Quattro Pro spreadsheets because they believed their systems were able to generate data that the PPI could not. They were not correct, but they had never been properly instructed about the PPI’s full capabilities.

A final example, however, demonstrates just how deep and wide ignorance of the PPI’s capabilities is: One station assigned one of its civilian computer programmers to create a database to provide reports on citizen’s complaints and deputies’ use of force. The programmer was told that the PPI could not generate the desired reports. The programmer devoted a thousand hours to the project, and succeeded in developing the requested program. But the PPI in fact could generate the requested reports. Consequently, the new software did little more than duplicate some (but not all) of the PPI’s reporting capabilities. Nonetheless, ignorance about the PPI was so widespread that more than 24 stations and field operations units embraced the programmer’s alternative software mistakenly believing that its report-writing capabilities exceeded those of the PPI.

## *Conclusion*

The LASD currently treats the PPI like a collectible automobile: It is put on display from time to time to demonstrate to the outside world that the LASD has the Rolls Royce of risk management software and procedures. And indeed it is the Rolls. But when the odometer is checked, it is apparent that it has hardly ever been taken out of the garage. When the maintenance records are reviewed, one learns that it cannot perform to manufacturer’s specifications because of neglect. And even when it has actually been taken out for a spin, few

of the people who drive it know how to get it to go more than 35 mph.

Use of the PPI for risk management has fallen. It is symptomatic of a trend that we have noted over the past four years of a reduced commitment and interest in the proactive identification and reduction of risk. We deplore it. We urge the Board of Supervisors to address it, recognizing all the while that unless top management in the LASD develops the will and discipline to take necessary action, there is little the Board or we can do.



### 3 . I m p a c t W e a p o n s

As set forth in Chapter Two, the PPI is a powerful tool for the analysis of force incidents involving LASD personnel. It is currently under-utilized by the LASD for this purpose. In order to demonstrate the power of the PPI and to conduct research for this report, we used the PPI to examine all non-custody use of force cases in the past five years that involved striking a suspect with an impact weapon in an effort to learn whether LASD deputies were using batons appropriately. The study's results gave cause for concern and diverted attention from a study of baton use alone: We found that flashlights, which can cause greater injuries than batons, and which are not generally authorized for use as impact weapons, were being employed in almost two-thirds of all cases in which a deputy strikes a suspect with an impact weapon. Table 1 sets forth the results of this research.

**Table 1: Weapon-By-Weapon Breakdown Of Cases Where Non-Custody Deputies Struck Suspect With An Impact Weapon Between December 1997 and December 2002**

*Each Incident reflects at least one deputy striking a suspect with the weapon specified<sup>11</sup>*

PPI Category	Incidents	% Of Total
Flashlight	231	63.3%
Baton	93	25.5%
Riot Baton	9	2.5%
Side-Handle Baton e.g., PR-24	3	0.8%
Side-Handle Baton (Extendable)	0	0%
Straight Baton	0	0%
Straight Baton (Extendable) e.g., ASP	0	0%
Sap	21	5.8%
Firearm Used As Impact Weapon	8	2.2%
Total Impact Weapons Cases	365	100%

<sup>11</sup> While conducting this research we found a flaw in the way the PPI captures information regarding baton use. Currently the Department authorizes five types of batons to be used by its members: (1) Riot Batons; (2) Side-Handled, Rigid Batons (e.g., the PR-24); (3) Side-Handled, Extendable Batons; (4) Straight, Rigid Batons; and (5) Straight, Extendable Batons (e.g., the ASP). Any baton wielded by an LASD officer will necessarily fall into one of these categories. Each of these five categories appears on the PPI. Nonetheless, there is a sixth, general cate-



## *I. Trends in Impact Weapon Use*

It was troubling to find that flashlights are used as impact weapons twice as often as batons.<sup>2</sup> The LASD, like most major law enforcement agencies, teaches that batons are tactically superior weapons, while the flashlight is to be considered only as a “weapon of necessity,” reserved for those cases when it is not possible to draw or use a baton effectively.<sup>3</sup>

Accordingly, the lopsided numbers set forth in Table 1 pose important policy and training questions: Why are there so many more flashlight strikes than baton strikes? Is it because deputies are violating policy by not carrying their batons? Are deputies using flashlights because they are failing to draw their batons before approaching a likely fight? Are they failing to maintain sufficient distance from suspects and thus are forced to use their flashlight as a weapon when encounters suddenly become violent? Does current training fail to equip deputies with the skills needed to appropriately handle close-quarters confrontations, or does the training fail to adequately stress that flashlight strikes should be resorted to only in exceptional circumstances? As the Force Training Unit subsequently confirmed, these questions are not currently being addressed because the PPI is not being used to generate the numbers or to analyze patterns in use of force cases. These questions are important and should

gory denominated “Baton.” This sixth category obscures valuable detail about LASD baton use because it appears to be used indiscriminately in lieu of the more specific five categories described above, rendering analysis of force incidents by baton type much more difficult. We asked why the sixth category was included, but never received a satisfactory answer. We were also dismayed that the LASD’s Force Training Unit appeared unaware that the PPI listed batons by type. That is not how it should be, and it points once again to the under-utilization of the PPI. For purpose of officer safety as well as for risk management, the LASD in general, and the Force Training Unit in particular, should be proactive in scouring the PPI for trends that might point up the need to revise or supplement training.

<sup>2</sup> The LASD is not the only law enforcement agency for whom the use of flashlights as impact weapons is commonplace. According to Garner & Maxwell’s study, “Measuring the Amount of Force Used by Police in Six Jurisdictions,” in NIJ, *Use of Force by Police: Overview of National and Local Data*, October 1999, after OC spray, flashlights were the second most commonly used weapon in the jurisdictions they surveyed.

<sup>3</sup> The LASD document, *LASD Training Bureau’s Rollout Manual: An Alphabetical Overview of Tactics and Training*, advises that “The flashlight is a weapon of necessity. Its primary purpose is for illumination.”

be answered.<sup>4</sup>

Next, there were nine cases where officers used their pistols as impact weapons. We were surprised to see any cases where pistols were used to strike suspects. According to one LASD force training publication, “Deputies are discouraged from using the Beretta [pistol] as an impact weapon for the following reasons: (1) the inherent danger of an accidental discharge endangering the deputies and other bystanders and (2) the firearm is also generally an ineffective impact weapon due to its construction and weight.”

Do the nine cases we found represent training failures? Again, as far as we could tell, Training was not even aware of this statistic and therefore was not in a position to consider whether these cases presented any immediate or long-term training concerns. That is because Training does not, as a matter of course, use the PPI to look for force trends.

## *II. Flashlights*

The flashlight may, in some circumstances, prove to be a more readily-accessible weapon than a baton — particularly when deputies already have the flashlight in their hand when confronting a person. Nonetheless, flashlights should not be considered appropriate equipment for routine use as impact weapons, and the LASD should consider carefully whether such use should be banned.

In addition to their use in control holds, batons are designed to be used as impact weapons, and can be selected according to characteristics that relate to this function. Flashlights, meanwhile, are designed as illumination devices, and are unlikely to possess characteristics that render them suitable for impact

<sup>4</sup> Although non-custody impact weapon use was the focus of our study, we also noted that the Custody Division reported 47 flashlight strikes during the five-year period we examined. Custody Division personnel do not routinely carry batons, and only three baton strikes were reported for the same period. We intend to address the issue of impact weapons use in custody facilities in a future report.

weapon use. The risk of injury associated with flashlight strikes is particularly significant with the flashlights often used by LASD deputies: large, multi-cell models, which typically have a more angular design and greater weight than authorized batons.

The dangers of using flashlights as impact weapons have been known since at least 1985. The authors of a leading study demonstrated that flashlights are significantly more dangerous than batons: They measured the degree of force that results from a blow with a five cell metal flashlight with a squared-off tail cap (a flashlight that an LASD deputy would be permitted to carry in the field), and found that, “if the flashlight is swung such that it strikes the skull at an angle, the possibility of a fracture of the skull is very likely, and almost a certainty if the blow is delivered near the eye socket or the temporal region of the head.” Moreover, they make a reasoned claim that a police officer using a flashlight as a weapon runs a significant risk of striking a subject's head in such a manner.<sup>5</sup>

More recently, Americans for Effective Law Enforcement (AELE), a not-for-profit educational corporation that provides research-based educational support to law enforcement professionals, has identified the following characteristics of flashlights that may make their use as an impact weapon inappropriate:

1. Inadequate length for effective use as tactical weapon
2. Slower response/recovery time than batons
3. Sharp edges that can cut a person
4. Excessive weight and associated potential for causing serious injury or death if used for headstrikes<sup>6</sup>

<sup>5</sup> *Journal of Police Science and Administration*, “Police Use of Metal Flashlights as Weapons: An Analysis of Relevant Problems,” Vol.13, No.3 1985.

<sup>6</sup> AELE (Americans for Effective Law Enforcement) Alert, *Use-of-Force Tactics and Non-Lethal Weaponry*, Issue number 3, 1999 (Revised). It should be noted that this AELE publication identifies these characteristics as “weaknesses,” and does not state a position as to whether agencies should authorize flashlights for use as impact weapons.

The dangers of headstrikes with impact weapons were specifically raised in the **Kolts Report**, and, in response thereto, the LASD adopted a policy banning intentional headstrikes except in cases where lethal force would otherwise be justified. Our arguments here are directed in general to all situations in which the flashlight is resorted to as the impact weapon of choice, including when the deputy fails to carry a baton; when a headstrike with the flashlight is unintentional; and when lethal force is not justified.

Concerns about flashlights do not only arise solely because they may cause unnecessary and preventable injury to suspects. Importantly also, flashlights lack the reach and maneuverability of a baton and are thus less likely to provide effective protection for an officer in a violent encounter.

### *III. Current LASD Policy*

The LASD confirmed that the use of flashlights as impact weapons is taught to deputies. Moreover, the flashlight is referred to as an “impact weapon” in the LASD force training document entitled Situational Use of Force Options and in the LASD Training Bureau’s rollout manual.

This endorsement of flashlights, however, is given in the absence of measures that might properly regulate the risks associated with such use. Also, it is inconsistent with LASD policy on batons. The risk of injury associated with a strike from an impact weapon varies according to the design and weight of the weapon used. The LASD policy on batons (3-03/140.00) dictates that deputies may only use certain specified models of baton, as well as specifying the acceptable weights for those batons. That policy states that “[a]ll batons shall be commercially manufactured, weigh between 14-31 ounces and shall be approved by the Uniform and Safety Equipment Committee [USEC].” The LASD policy on batons indicates that the Department recognizes the need to regulate the characteristics of impact weapons used by its deputies.

The LASD policy on flashlights (3-03/220.00) does regulate weight, but fails to specify design characteristics relevant to impact weapon use:

“The flashlight carried on duty shall not weigh more than 19 ounces without batteries; nor shall it require more than 5 batteries to operate. The flashlight used shall be of good commercial quality and construction and shall be regularly inspected by its owner for proper working condition.”

It is likely, however, that a 19-ounce flashlight loaded with five batteries will weigh more than the heaviest baton authorized for LASD use. Such a flashlight almost certainly was not commercially manufactured for use as an impact weapon; it does not have to meet any particular design specifications as an impact weapon; and does not have to receive the approval of the USEC before a deputy can carry it in the field.

The use of “weapons” whose tactical efficacy is effectively untested and unregulated cannot provide for the consistent and effective protection of LASD personnel. A properly designed baton is likely to provide considerably more protection than a flashlight when used as an improvised club. Moreover, the use of a device whose capacity for the infliction of injury is effectively unregulated represents a potential source of avoidable injuries to civilians and possible County exposure to civil liability.

Accordingly, we recommend that the LASD adopt the position that flashlights are not to be used as impact weapons, absent exceptional circumstances where a deputy finds himself with an immediate need to strike and cannot feasibly use the baton. Moreover, the LASD should review its force training to discourage the use of flashlights to strike suspects. Better yet, given the wide availability of much lighter and smaller flashlights that provide the same or better illumination and coverage as the heavier ones, and given further that these smaller flashlights cannot be used as impact weapons, the wisest course may be that the LASD switch to the lighter, smaller models.

## 4. Improving the PPI

### *What Others are Doing That The LASD is Not*

#### *Introduction*

During the past five years, law enforcement agencies across the United States have increasingly made use of early warning systems to alert them to potentially problematic officers and situations. The LASD's version, called the Personnel Performance Index or PPI, remains the most complete and useful in the United States, principally because of its depth. Although, as this Chapter will demonstrate, the PPI has been superseded in some respects by newer systems which track wider categories of data and performance, no other permits the user to access and drill down through more background materials behind each entry than does the PPI. In no other can the user bring up the entire file for each Internal Affairs investigation that has taken place. Similarly, no other tracking system permits the user to pull up each citizen's complaint, the narrative of the investigation of the complaint, and other documents generated in connection with the investigation. The PPI is built on an ORACLE relational database, and this feature gives it the power to generate reports and make queries that few other early warning systems have. Accordingly, the PPI remains the best system overall.

But not for long.

As this Chapter's review and analysis of early warning systems across the country demonstrate, the LASD will be remiss if it ignores the advances made by other departments and fails to keep up with the state of the art.<sup>1</sup> Indeed, the LASD will soon find that the PPI has been surpassed once the early warning systems mandated by the United States Department of Justice (DOJ) in the Los Angeles (LAPD) and Washington DC (MPD) settlements come on line. In this Chapter, we report on innovations developed by the Pittsburgh and Miami-Dade police departments and others with an eye toward suggesting how the LASD can ensure that the PPI keeps pace with emerging national standards for managing police risk.

<sup>1</sup> Although our research for this Chapter involved travel to various cities to examine their tracking systems in depth, none of the time and expenses involved was charged to the County of Los Angeles.

## *I. Tracking Additional Areas Of Risk And Performance*

The PPI tracks all: (i) uses of force by LASD officers, (ii) citizen's complaints and commendations about the performance of LASD officers; (iii) shootings by LASD personnel; (iv) internal administrative investigations of LASD personnel; (v) civil claims and lawsuits naming LASD personnel; and (vi) requests for discovery from the LASD. Each of these modules contains detailed information about the given occurrence or incident. Moreover, data in different modules relating to the incident are electronically linked so that a user can determine quickly if a particular incident, such as a use of force, also resulted in a citizen's complaint, Internal Affairs (IAB) investigation, lawsuit, or all three.

In the early 1990's when the PPI was developed, these areas were thought to adequately identify actual and possible patterns or practices of misconduct by a given officer. But as other law enforcement agencies developed similar systems, they added additional categories, many of which we now recommend should be added to the PPI to keep it as effective as possible.

### **A. Pittsburgh's System: PARS.**

The Pittsburgh Police Bureau's (PPB) counterpart to the PPI is known as the Performance Assessment and Review System, or PARS. PARS was mandated in the consent decree settling a civil rights complaint filed by DOJ alleging that the PPB had engaged in a pattern or practice of police misconduct.

Although PARS tracks use of force, complaints, shootings, and internal investigations, much like the PPI, it also captures data in eleven additional categories:

1. Officer-involved vehicle accidents;
2. Arrests;
3. Traffic stop data (e.g., race, age, and sex of person stopped, stated reasons for stop, and resulting action by officer);
4. Warrantless searches and seizures;
5. Discretionary criminal charges filed by the officer (e.g., interference with

- police officer);
6. Civil claims regarding certain off-duty conduct: (a) domestic violence, (b) untruthfulness, (c) racial bias, or (d) use of force;
  7. Criminal Investigations;
  8. Any mandatory counseling sessions attended by the officer;
  9. Missed court appearances;
  10. Excused or unexcused absences; and
  11. Sick leave.

Although the LASD has data on most of these categories, users cannot access and correlate this information through a single software application. For example, if LASD captains sought — as they should — to assess an officer’s citizen complaint history in light of that officer’s arrest and overall street activity — they would have to amass and interrelate information from separate databases. While this can be done, it is a labor-intensive exercise. PARS also quickly calculates an officer’s ratio of complaints or uses of force per 100 arrests — a calculation which LASD managers can in theory compute but few will do on a regular basis because of the labor involved.

Other information tracked by the PPB is even harder to come by in the LASD. Missed court dates are not uniformly tracked in the LASD. More crucially, information regarding criminal investigations of officers — including those that have been closed — are not available in any database. Instead, the manager must contact the LASD’s Internal Criminal Investigations Bureau (ICIB), which will then have to research the question itself. We have long advocated that such information be included in the PPI.<sup>2</sup>

<sup>2</sup> Some within the LASD argue that our recommendations in this regard have been met, at least in part, by adding fields to the Investigations Module which refer to criminal investigations being monitored by Internal Affairs. Specifically, the Investigations Module identifies those administrative investigations designated as an “IAB Monitor” — that is, cases in which IAB has been assigned to monitor the status of an ongoing criminal investigation so that when such an investigation ends, IAB may conduct an administrative investigation.

We continue to argue that this is insufficient. First, as the LASD has conceded, there is no guarantee that all criminal investigations will result in an “IAB Monitor.” And, in any event, criminal investigations can go on for months before anyone in the Department requests an IAB Monitor. Second, the PPI has no way to inform users that a given officer has or is the subject of criminal investigations. Accordingly, not all criminal investigations will be reflected in the PPI.



## B. Phoenix, Arizona's System: PAS.

During the last two years, the Phoenix, Arizona Police Department (PPD) has been developing its own early warning system, which it calls the Personnel Assessment System, or PAS. PAS takes some ideas from Pittsburgh's PARS system, some from the LASD's PPI, and adds a number of new ideas of its own. For reasons set forth in the footnote below, we cannot recommend PAS with quite the same enthusiasm that we recommend the PPI or PARS.<sup>3</sup> Nonetheless, PAS has admirable attributes which deserve emulation and incorporation in the PPI, as we describe below. Like the PPI, PAS is made up different data "modules." PAS contains the same modules as the PPI save for one: civil litigation.<sup>4</sup>

One major distinction between PARS and PAS, on one hand, and the PPI, on the other hand, is that PPI is "incident driven," meaning that the common element linking the data will be a particular event. Data about the event, including the LASD employees involved, any IAB investigation or a lawsuit that was generated, and other information will be identified and linked to a uniform incident number. PAS and PARS, on the other hand, link data by a particular officer's name or badge number.

A benefit of this officer-centered approach is that PAS permits the user to access quickly basic personnel information regarding the officer — information

<sup>3</sup> Over the past year, the PAS has received favorable attention in the law enforcement and academic communities, with some even going so far as to point to the PAS as a model for other agencies to copy. While PAS contains a number of promising new features, its data collection and reporting capabilities are quite limited. For example, unlike Pittsburgh's PARS and the PPI, PAS is unable to report: (1) the name of civilians who complain or against whom force is used; (2) a synopsis describing the circumstances leading up a shooting, use of force, or other high-risk incident; (3) whether a shooting was hit or non-hit or whether the suspect was armed; (5) whether a given high-risk incident has led to a lawsuit or civil claim; or (6) those IAB investigations that are either pending or that did not result in discipline against the officer. In addition, the Phoenix Police Department has policies in effect which prevent some citizen's complaints from ever reaching PAS. The Phoenix PD gives precinct supervisors the discretion not to record a citizen's complaint if, in that supervisor's opinion, the complaint clearly lacks merit or is a minor matter that can be resolved at the front counter. In light of these and other limitations we found, we cannot recommend the current version of PAS as a model for police departments in larger cities like Los Angeles or Washington DC.

<sup>4</sup>We discussed the advantages of such a module in meeting with the PPB, and Phoenix has decided that it intends to add a civil litigation module shortly.

which the LASD cannot access with the PPI. Thus, for example, a Phoenix manager can enter a given officer's identification number and have access to the officer's age, rank, assignment history, training history, firearms qualifications data, as well as other pertinent background information. Although such data is captured by the LASD, a user seeking to collect the different pieces of information must access a number of different databases. In Phoenix, it all can be done with a click of a button.

Like PARS in Pittsburgh, Phoenix has one-touch access to officer arrests, racial profiling data, traffic accidents, and both excused and unexcused absences. In addition, PAS tracks data in ten areas not currently tracked by PARS or the PPI:

1. Citations (traffic or other minor infractions)
2. Field Interrogations (i.e. citizen contacts)
3. Vehicle Pursuits
4. Officer Overtime
5. Off-Duty Work (identifies positions and hours worked)
6. Injuries on Duty
7. Results From Internal Audits (i.e., grades from Department inspections)
8. Hazardous Exposures to Chemicals or Pathogens;
9. High Stress Radio Calls (e.g., calls involving children who have been abused, molested, or killed, actual or attempted suicides, etc.)
10. Suspects' Use of Force on the Officer

The last two categories listed above are particularly interesting innovations. The Phoenix decision to focus specifically on stress factors impinging on PPD officers flowed from two recent suicides and one attempted suicide by Phoenix police officers. Phoenix responded to these incidents with a detailed study of each officer's work histories in order to see if any common patterns emerged. Interestingly, the PPD found that two of the police suicide incidents were preceded by an unusual number of highly-stressful calls for service to which the

two police officers had responded, and all of which involving members of the public who had committed or attempted suicide. One PPD official observed, “I know it’s not absolutely scientific, but we found it awfully interesting that two of the three officers had taken suicide or attempted suicide calls shortly before they made their own attempts... So we were taken in the direction of trying to see if we could come up with a list of high stress calls that might affect an officer out there.”

Over time, the PPD will have data permitting an interesting comparison between officer performance and high stress calls. We applaud the PPD’s concern and creativity in his area. Also of great interest is the PPD’s decision to track how often an officer has been assaulted by a suspect. Such numbers, when viewed in the proper context and with adequate sensitivity, may shed light on whether such assaults are merely a function of the given officer’s assignments and arrest patterns, or if the officer’s demeanor is unnecessarily antagonistic, or whether the officer is working too hard and taking too many personal risks.

The PPD’s focus on these and other factors impinging on officer performance, such as working double shifts or moonlighting, apparently has helped ease patrol officers’ initial concern that the system would only be used for punitive purposes. “The system helps us back up the claim that we are really focused on saving our officers from harm,” noted one PPD official.

#### C. DOJ-mandated requirements.

DOJ has made a sophisticated early warning system a central requirement of any settlement, by consent decree or otherwise, in large jurisdictions with troubled police agencies. DOJ agreements with New Jersey, Los Angeles (LAPD), Cincinnati (CPD), and Washington, D.C. (MPD) have the requirement.

The different agreements require different data to be collected. Each of the following is highly relevant and valuable information to collect:

1. All instances in which a prosecution declination or a motion to suppress was based upon concerns about the officer's credibility or on evidence of a Constitutional violation by the officer (MPD);
2. Canine bite ratios (CPD);
3. The number of canisters of chemical spray used by officer over a given period of time (CPD);
4. All instances where there is a combination of (a) police force and (b) certain criminal charges, such as "Resisting Arrest," "Assault on a Police Officer," "Disorderly Conduct," or "Obstruction of Official Business" (CPD); and
5. Under certain circumstances, incidents in which an officer points a firearm at a civilian; (CPD).

All of the categories are commonsensical. The first and last of these categories, though, are particularly compelling and merit further discussion. As to the first, if an officer's story or conduct does not hold up to scrutiny either by the prosecutor or a judge, then the law enforcement agency has a problem officer whose performance it needs quickly to address. Although the LASD has conducted similar studies on an ad hoc basis from time to time, as we noted in our complimentary discussion of how then-Lieutenant (now Captain) Jim Lopez did so at the Century Station in a previous **Semiannual Report**, the LASD would benefit from tracking such data on a consistent and regular basis and including it in the PPI.

As to the second category — pointing a firearm — the act is fraught with great risk to the law enforcement agency. Unnecessary and overly frequent instances of pointing guns at people by the police quickly corrode fragile community relationships and may constitute outright civil rights violations. A strong case can be made for stricter tracking and oversight of officers who habitually and unnecessarily unholster or point their weapons. By the same token, law enforcement agencies that tolerate such patterns may find they have violated the

civil rights laws. Accordingly, it makes great sense for a law enforcement agency to track such incidents in order to test whether officers are unholstering and drawing their guns in a prudent and lawful manner.<sup>5</sup>

In short, we strongly recommend that the PPI be expanded to include the categories we have described in Part I of this Chapter. To do so will keep the PPI as state of the art and as the best such system in the United States. To fail to do so will cause the PPI to become second rate.

## *II. Enhancing Analysis Of Early Warning Data*

Pittsburgh and Phoenix have devised novel and powerful ways to report the early warning data that are currently not being used by the LASD. Both police departments generate reports that make it easy to compare a given officer's performance to others who work the same shift and patrol the same or similar areas. This capability allows a supervisor, with the click of a mouse button, to see how a given officer's performance stacks up against other officers within the same squad of shift, thus providing for true "apples-to-apples" comparisons. Although there are individual captains in the LASD who will perform this analysis either on a regular or ad hoc basis at their particular station, the generation of the data is cumbersome and time-consuming and is not uniformly required by the LASD of all of its captains.

The benefit of having this data easily available, as was mandated in the Pittsburgh consent decree and followed by Phoenix, should be obvious. When asked about an accumulation of force incidents or citizen complaints, officers often give the same response: "We work in an area (or shift) with a high level of crime and thus such numbers are to be expected."

<sup>5</sup> As with all of our recommendations and observations, we do not advocate measures that increase the risk of death or serious injury to LASD deputies or police officers in general. Thus, we are in no way advocating that a deputy fail to unholster a gun or point it when prudence and safety legitimately require. Nor do we believe that merely tracking unholstering and pointing of weapons will chill or discourage officers from doing what is necessary to keep safe.

In Pittsburgh and Phoenix, the validity of such claims can quickly be tested by comparing a given officer's performance to others within his same squad or unit. The captain may quickly discover that a given officer has twice the number of complaints than do other officers on the same shift in the same geographic area. So too might the captain notice that there are officers who on a shift who generate more traffic stops, contacts, and arrests than other officers but yet receive fewer citizen's complaints than other, less productive officers.

LASD patrol supervisors have told us on several occasions that they want the PPI to be able to make such apples-to-apples comparisons. LASD deputies have also argued in favor of such comparisons. As one put it, "You gotta' take a look at that information [regarding the performance of the officers within the same shift] so you can not only figure out who's a little heavy [in using force], but also who's coasting out there, windows rolled up, taking only [service] calls." Another observed, "Hey, if I've got four complaints and 200 felony arrests but the average... for my shift is two complaints and only fifty [felony arrests,] I might be actually entitled to a commendation for working my ass off hookin' and bookin' — being proactive."

Re-tooling the PPI to provide shift- and squad-specific averages and comparisons is an important step we strongly recommend.

### *III. Standardized Intervention Procedures*

In Chapter Two of our Fifteenth Semiannual Report, we discussed the strengths and weaknesses of the LASD's procedures for selecting officers to go on Performance Review based at least in part on their record as reflected in the PPI. If the recommendations and observations made in that report are adopted by the LASD, the Performance Review process will likely remain a thorough and careful method to deal with problematic or potentially problematic officers. Nonetheless, there are lessons to be learned from other law enforcement agencies which hold captains more strictly accountable for acting

on troubling patterns discovered through use of an early warning system. Two Florida law enforcement agencies — the Miami Dade Police Department (MDPD) and the Tampa Police Department (TPD) — have developed requirements for captains to examine the conduct of officers under their command at regular intervals and to fully document and report back on the outcome of those reviews.

A. Miami-Dade And Tampa Police Departments:  
Mandated Review And Documented Action.

*Miami-Dade.* Miami-Dade’s early warning system, known as the Early Intervention System (EIS), generates data about officer conduct in three different reports. First, each month the Professional Compliance Bureau (PCB), which is the MDPD’s Internal Affairs unit, circulates to command level officers an “Early Identification Report” that lists the names of each employee who, within the past 60 days, generated two or more citizen complaints or two or more use of force reports or both. This report is for informational purposes only and no specific action is required on the part of the command level officer, although they are free to look further into the information and take any appropriate action.

Second, PCB circulates an additional report each quarter that contains the additional data and EIS profiles of employees who have received two or more complaints or three or more use of force reports or both within the past 90 days. In response, command level officers must analyze each flagged officer and must do one of four things:

1. refer the officer to the Psychological Services Program for counseling;
2. require the officer to participate in MDPD’s 40-hour Stress Abatement Program;
3. require the officer to take other correctional action; or
4. document a finding that “no problem exists.”

The action taken must be memorialized in a written report sent to PCB.

Third, PCB circulates an annual report that fills in gaps left by the quarterly report. This annual report identifies all officers who have, within the past 12 months, garnered four or more citizen's complaints, seven or more use of force reports, two or more shooting incidents, or a combination of the above. Command-level personnel are again required to take a careful look at these employees, take any appropriate action, and provide PCB with a written report.

*Tampa.* Tampa's Early Intervention Program (EIP), which has earned special recognition from the U.S. Department of Justice,<sup>6</sup> follows a similar model. First, IAB circulates a quarterly report that flags officers who meet one or more of the following thresholds:

1. two or more IAB complaints;
2. four or more incidents where the officer used force equal to or greater than punches or kicks;
3. two or more officer-involved shootings; or
4. six or more complaints of service (e.g., response time, inadequate criminal investigations, etc.).

Upon receiving this information, the supervisor is required to review the underlying cases according to pre-determined criteria<sup>7</sup>. The supervisor (typically the commander of a station) is then required to take one of the following actions:

<sup>6</sup> In 2000, Tampa received a "Best Practices" grant from the Department of Justice to enable the TPD to speak with dozens of police departments across the country about early warning systems in general, and Tampa's EIP in particular.

<sup>7</sup> For example, with respect to each use of force or IAB case, the supervisor must make findings regarding: "[1] [W]hat, if anything, could have been done differently to help prevent the complaint [or use of force]; [2] [I]f there are any similarities between incidents; [3] [Whether] other possible indicators of stress are present such as an unusual amount of sick leave, tardiness, marital problems, etc; [4] [Whether] a trend of patter of behavior is indicated..." Tampa Internal Affairs Bureau, Early Intervention Program 18 (2001).



1. determine no further action is warranted;
2. defer the employee to refresher training in one or more of the following areas: human relations skills, defensive tactics, cultural diversity, driver skills, or policy/procedure;
3. refer the employee to Psychological Services for personal or family counseling, financial and money management counseling, or drug or alcohol assistance;
4. refer the employee to a stress awareness course and enrollment in a physical exercise program;
5. transfer the employee to another assignment; or
6. discipline the employee where new violations are revealed and sustained.

Like Miami-Dade, the TPD requires station commanders to document their analyses and actions. Within 30 days of receiving a quarterly EIP report, they must provide IAB with a written report. IAB then forwards the report to the chief of police, assistant chief, and the concerned deputy chiefs.

Station commanders are also required to conduct an annual review of officer performance based upon slightly different thresholds. Once again, the concerned officer's captain must follow the above-described guidelines for acting upon the information and then reporting its actions to IAB.

We recommend that the LASD require its captains to conduct similar, proactive reviews on a monthly, quarterly, and annual basis and report up the chain of command with respect to their analysis and course of action. In so recommending, however, we neither endorse nor reject the specific "triggers" used by the MDPD or TPD or the array of intervention options made available in those two departments. As we have noted elsewhere in this Report, the PPI is under-utilized in the LASD. There are no mechanisms currently in place to require that LASD captains review and act upon PPI data.

## B. San Jose Police Department: Using The Early Warning System To Identify And Correct Problems In Supervision

LASD deputies perform poorly for many reasons, but one of the most salient is poor supervision and oversight. Many within the LASD would agree that the LASD has not used the resources at its disposal to track and deal with problematic supervisors. At our encouragement and recommendation, the LASD adopted written policies setting forth the specific responsibilities of each rank from sergeant to Sheriff for management of the risk of police misconduct. *LASD Manual of Policy and Procedures* Sections 2.02/010.00 et seq. Nonetheless, the LASD has not followed up by systematically tracking and taking action to discipline or otherwise correct instances of faulty supervision.

In contrast, the San Jose (CA) Police Department (SJPD) affirmatively uses its early warning system to track supervisor performance and has had positive results from the effort. In March 2001, the SJPD created the Supervisor Intervention Program to raise the level of personal accountability for first-line supervisors. Under the system, a first-line supervisor is flagged for review if his or her subordinates receive three or more complaints within a six-month period. Supervisors meeting this criteria are flagged by San Jose's version of IAB (the Professional Standards and Compliance Unit, or PCSU), which then requires them to meet with their immediate supervisors, the head of PCSU, and an assistant chief. The review and meetings are non-punitive in nature, but they entail discussions of the complaints, the employees who generated them, and the supervisor's performance in dealing with those employees.

Although we have not done a critical analysis of the SJPD system, we have no reason to question the SJPD's own conclusion that the system is a success. SJPD claims that the supervisors who are singled out find the meetings to be more constructive than critical. Additionally, the SJPD reports that no supervisor has been flagged more than once for review — a statistic that tends to show that supervision improves following these reviews and meetings.

The LASD does not do the best job of holding the entire chain of command accountable for lapses in supervision, inattention to problem officers and patterns, failure to affirmatively manage risk, and deficiencies in analysis of problem behavior by those they supervise. The first-line supervisors – sergeants and lieutenants – have vitally important roles, and the LASD should do a more thorough job of holding them accountable. By the same token, those in the middle and upper reaches of the chain of command must resist the impulse always to point fingers down the chain of command and not up. The culture, ethic, and temperament of a law enforcement agency are powerfully affected by the messages sent by the *inaction*, as well as the action, of senior managers and executives. We point out the San Jose model because it is unusual in its systematic attempt to identify poorly performing supervisors. The LASD needs something similar all the way up the chain of command.

#### C. Tampa Police Department: Using Early Warning Data For Purposes Of Training-Based Intervention.

Early warning systems not only help identify possible misconduct but also can spot training deficiencies and the need for new or different training. The LASD does not do its best at using the PPI for this purpose.

The TPD, on the other hand, looks at the data to find potential training opportunities. During our recent visit to Tampa, an IAB investigator related how two TPD officers who were partnered together too often resorted to batons to subdue suspects who had been arrested on minor charges. Within a week of the discovery of this fact, the TPD asked the two officers to attend a session where they were put through exercises with a Training instructor in a padded “Redman” suit while being videotaped. The officers were instructed to lay down their OC spray and their impact weapons. They replaced their firearms with training guns that fired blanks. They were then asked to apprehend and handcuff the Redman. They performed poorly. They failed to communicate with each other, got in each other’s way, and acted at cross-

purposes. The video showed one of the officers starting to run away, leaving his partner behind. As the camera zoomed in, it became clear that the Redman had stripped the fleeing officer of his gun. The Redman then fired at and “killed” the fleeing officer.

A Tampa IAB officer observed, “The problem wasn’t that these guys were heavies. It was just that these two clowns forgot how to fight — if they ever knew how. If you don’t know how to use a compliance hold or use a takedown [technique], then what are you left with? A higher level of force. We fixed them up with refresher training and we haven’t had any problems since.”

There is no reason why the LASD could not do a better job of using the PPI to identify and correct similar training deficiencies, and we recommend that the LASD do so.

## *Conclusion*

As good as the PPI is — and we continue to rate it highly — the LASD cannot rest on its laurels. In short order, the PPI will no longer have the breadth of coverage of a first-rate early warning and tracking system. Several law enforcement agencies around the country have or will soon have a first-rate system. The PPI needs to be expanded to include the categories of data set forth in Part I of this Chapter. Additionally, there are better ways to report and present data which the LASD should adopt, as we describe in Part II. Finally, as we detail in Part III, there are interesting experiments around the country with ways to correct problems identified by a tracking system which the LASD should emulate.



## 5 . F i r e a r m s T r a i n i n g a t L a s e r V i l l a g e

### *Introduction*

Although most police officers will never fire their weapons in the line of duty, they must be confident that if the need arises, they will make appropriate split-second decisions about whether or not to shoot. Once a decision to shoot is made, they must shoot accurately and in a disciplined manner. Over the past ten years that we have been studying shootings in the LASD and in police departments across the country, we have noted that too many arise from a panicked or undisciplined response by the officer. Some of these shootings may involve the firing of an excessive number of rounds; others involve poorly targeted or unfocused rounds that endanger other law enforcement officers, innocent bystanders, or third parties. Because the quality of “shoot/don’t shoot” training bears directly on the avoidance of these unnecessary or preventable shootings, we focus in this Report on the LASD’s tactical firearms training.

LASD deputies receive such training at the Academy and Patrol School. Thereafter, they take refresher courses and must qualify at the firearms range three times a year. But the POST-approved qualification process used by the LASD, and virtually every other major police agency in the country, bears little resemblance to any real-life scenarios an officer is likely to encounter on the street.<sup>1</sup> Typically, to qualify, an officer must merely go to an approved firing range, stand stock-still in a shooting stall, and fire with minimal accuracy at a stationary paper target located 25 yards away.

In contrast, to meet the actual challenges of a law enforcement job, the LASD’s tactical firearms training facility, Laser Village, tests and improves firearm performance through more realistic and typical law enforcement scenarios. Laser Village instructors sharpen a deputy’s ability to assess whether a suspect presents a serious threat. They work at improving a deputy’s skill to

<sup>1</sup> POST stands for statewide police officer standards and training protocols issued by a California state commission.

fire accurately at a moving target, to fire accurately while moving or taking cover, and to fire with only one hand on the gun.

As we monitored Laser Village instructors in action during the last six months, we were impressed by the excellence of training and coaching provided. At the same time, we were dismayed by how seldom LASD officers are provided a chance to benefit from it. In theory, officers receive refresher tactical training at Laser Village as part of their continuing professional training (CPT) once every two years — a too infrequent interval, in our view. But the reality is that many patrol officers must wait more than three years between Laser Village sessions. The firearms instructors argue forcefully that firearms skills are highly perishable and concurred with our perception that many of the LASD personnel who had gone more than a year between refreshers were “rusty” when it came to tactics and techniques. LASD deputies need more frequent refresher training if they are to retain the skill and confidence to make sound decisions on the street. Accordingly, for reasons set forth in this Chapter, we recommend that all patrol officers undergo Laser Village simulation-based training at least once a year, and officers assigned to stations with historically high incidences of officer-involved shootings stations, like Lennox or Century, should participate once every six months.

### *I. Laser Village Instruction*

Laser Village offers training in five different settings:

1. **Classroom training** by one of Laser Village’s eight instructors, including use of the Range 2000, a somewhat outdated, though still useful, video simulation exercise;
2. **The Combat Shooting Range** — a firing range set up in a trailer in which officers fire at a moving paper target;
3. **The Shooting Solutions Trailer (SST)** — a firing range also set up in a trailer in which officers fire live, frangible rounds (i.e., rounds that

turn into dust upon impact) at a large video screen portraying realistic crime scenarios that call upon officers to make “ Shoot / Don’t Shoot” decisions; and

4. **Less-lethal weapons training**, including training in the use of the stunbag or beanbag shotgun or the Sage SL-1 or SL-6, which fires 37 millimeter “rubber batons”; and
5. **Simunitions training**, in which officers equipped with paintball-like rounds are required to make tactical entries into reproduction commercial or residential buildings (the actual “village” of Laser Village) and potentially square off against instructors who are firing simunitions rounds at them.

Six of our staff participated in a variety of the Laser Village exercises, except for the Simunitions Training. Although there were scenarios that were unrealistic or tending to the somewhat paranoid, in general the simulations were realistic and helpful. The instruction, as noted before, was uniformly excellent.

Laser Village staff, however, is far too small — only four full-time instructors. The number should be doubled: It is unrealistic to rely, as the LASD currently does, on only four instructors and a few other staff members to handle Academy classes, Patrol School, and continuing training for roughly 4,600 patrol and field operations officers. The LAPD, which has roughly as many officers as the LASD, has three times as many active firearms instructors as the LASD.

#### A. The “ Roadshow” : Laser Village’s Mobile Firearms Training

Despite the benefits of regular refresher training, many station captains do not send their staff to Laser Village because it often means that the deputies are unavailable to the station for an entire shift. In response, for more than a year, Laser Village has been offering Mobile Firearms Training, informally



known as the “Roadshow,” in which the Laser Village instructors and mobile shooting trailers go out to the stations to conduct several days of in-service training. Deputies are pulled from their regular duties for 45-60 minutes to undergo drills and instruction in the three areas: the Combat Shooting Trailer, Less-Lethal Weapons Training, and the Shooting Solutions (SST) Trailer.<sup>2</sup>

Since launching the Roadshow, the instructors brought trailers twice to the Century Station and once to the Santa Clarita Valley, Norwalk, and Carson stations in 2001. In 2002, Laser Village’s Roadshow made two visits to Temple Station and one to the Norwalk, Carson, Lennox / Marina Del Rey, and Pico Rivera stations. On each occasion, large numbers of deputies participated. During a several day visit to Century, for example, 86 deputies received training, and none were away from their patrol duties for more than an hour. Because the officers come directly to the training from patrol duty, the station environment is particularly conducive to serious training.<sup>3</sup>

We attended the Laser Village Roadshows at the Temple, Pico Rivera, and Norwalk stations, where we saw 147 LASD patrol officers undergo one or more of the training exercises. We also saw roughly a dozen officers from neighboring police departments take the training as well. We also spent a Saturday at Laser Village watching 41 Patrol School officers going through essentially the same training. All told, we spent 36 hours observing a total of 188 LASD officers.

<sup>2</sup>Currently, the Laser Village Roadshow does not include Simunitions Training, in large part because Laser Village currently does not have material it can bring to the stations that would serve as a mock building or structure that can be used for the training. However, because Simunitions Training is highly realistic and most closely reproduces what officers face in real combat, we urge the LASD to obtain or develop collapsible and portable structures that can be used to bring Simunitions Training to the stations.

<sup>3</sup>Nonetheless, we came across a few cases in which officers clearly were not ready to perform in the simulation. Getting officers into the proper mindset can be a challenge, as one Laser Village instructor explained:

“I love it when Deputies step into the [Shooting Solutions] trailer and start kicking spent shell casings out of the way. Like they’re never going to find a [real life] situation where there’s broken glass, uneven pavement, gum, gunk, and what have you. They’ve been trained at the [qualification] range to get everything all nice and neat before they aim and shoot. We try to break that mentality.”

## B. The Combat Shooting Trailer

We first observed 25 deputies in the Combat Shooting Trailer, where officers fire live rounds at a moving paper target. This exercise reinforced the principle of “fire control,” or “fire discipline,” meaning that deputies were trained to fire in bursts of only 2-3 rounds so that they can assess whether they have stopped the threat before firing additional rounds. Officers who are not confident with their firearms skills, or who react in a panicked way, tend to fire too quickly and fire off too many rounds, a phenomenon jokingly referred to by the instructors as “Spray and pray.” One purpose of the Combat Shooting Trailer, therefore, is to teach a deputy to take adequate time to properly sight a target before firing and to evaluate shots after firing so that only those rounds necessary to deal with the threat are discharged.

The Laser Village instructors’ prediction that officers would tend at first to fire too fast and too much proved correct. In response, Deputy Tim Millette, an assisting Laser Village range instructor, would calmly build up the trainees’ confidence and ability, usually by telling them, “You might just want to back down the speed just a hair.” Almost without exception, by the time the deputies left the trailer, they had greater poise and control.<sup>4</sup>

The exercises we observed required the deputies to fire accurately at a target from different distances. As we noted above, POST-mandated firearms qualification training requires officers simply to fire at a stationary target located 25 yards away — a scenario that bears little resemblance to what officers are likely to encounter on the street.

Next, the exercises sharpened skills at firing from behind cover. Mechanical or tactical errors in the use of cover were identified and corrected by the instructor. Because police officers in a real gunfight are invariably taught to

<sup>4</sup> Although Deputy Millette is not on the Laser Village staff, it was clear that the Laser Village instructors have worked with him closely to ensure that he is delivering appropriate instruction in an appropriate manner. His performance, like that of every other member of the Laser Village staff, was exemplary.

take a position behind cover, the instructors' ability to identify and correct these mistakes was invaluable.

Finally, the Combat Shooting Trailer allowed the instructor to fix a wide range of mechanical problems with officers' shooting grips and stances. Although Deputy Millette was careful not to overwhelm an individual officer with too many suggestions, he nonetheless substantially improved the shooting mechanics of virtually every officer he trained.

### C. Less-Lethal Weapons Training

The Laser Village firearms instructors also provided first-rate instruction in “less-lethal” weapons, such as stunbag or beanbag shotguns and the Sage SL-1 and SL-6 37-mm projectile launchers, which fire “rubber batons” at roughly twice the speed of a major league fastball.<sup>5</sup> In the 18 instruction sessions we attended, the instructors set up an ad hoc firing range, typically located in a storage area or garage space, demonstrating the weapons while providing detailed information regarding projectile velocity, impact, and target sighting. The instructors then turned the weapons over to the trainees, each of whom fired a few test rounds. The trainers were excellent and to the point. We formed some opinions about the relative merits of some of the less-lethal weapons from our observations of the training.

<sup>5</sup> The SL-1 and SL-6 are lightweight weapons with highly-accurate rifled barrels that are easy to sight on target. In contrast to beanbags, we are aware of no documented cases in which plastic or rubber 37 mm “baton” rounds fired from the SL-1 or SL-6 projectile launchers have resulted in death or serious bodily injury *if fired from a proper distance*. Moreover, the design is sufficiently unique that an officer could never mistake one for a real shotgun. Thus, we view these weapons as a lower-risk alternative to beanbag or stunbag shotguns. There are several documented cases in which beanbags fired within 30 feet of the suspect actually *penetrated* the suspect's body or ruptured arteries or internal organs. See, e.g., Dahlstrom and Penk, *12-Gauge Shotgun Beanbag Penetration*, Canada Police Research Center Technical Memorandum, (1999). For example, in September 1999, LAPD officers in Van Nuys tried to calm a 29-year-old man, who was yelling in the street and talking incoherently. According to the officers, the suspect picked up a metal stake and rushed at them. One of the officers fired a beanbag shotgun. One round penetrated the suspect's jaw. Another struck a medallion hanging from the suspect's neck which then pierced his chest, tearing into a lung and killing him. In another case, Huntington Beach officers fired a beanbag round which penetrated the suspect's chest, broke two ribs, and severed an artery. The beanbags had to be removed surgically. The officer claimed he was standing 30 feet away — a range allegedly deemed safe by the manufacturer's literature. See Leonard, *Police Dropping “Nonlethal” Beanbags as Too Dangerous*, LOS ANGELES TIMES A-1 (June 3, 2002).

Although we are quick to point out that we have little expertise in evaluating weaponry, and readily will defer to those with more experience and expertise, we nonetheless became persuaded, for reasons set forth in the footnote below, that the advantages of the SL-1 and SL-6 outweigh the disadvantages of stunbag or beanbag shotguns.<sup>6</sup>

## *II. The “Shooting Solutions” Trailer*

### A. Overview

The centerpiece of Laser Village is the Shooting Solutions Trailer, which requires officers using live ammunition to make “Shoot / Don’t Shoot” decisions in response to an interactive videotape of a crime (or suspected crime) in progress. Officers enter the SST trailer one or two at a time. After donning eye and ear protection, they are directed to face a large video screen (which produces near life-sized images) and prepare to respond to a high-stress situation that will play out before them. The officers are given little guidance. They are told that the three foot-high plywood barriers in front of them represent their only available cover, and they should use it as they deem appropriate. Finally, the instructor tells the officers the nature of the call they will be asked to handle, and adds that they should talk and move as if the scene they are viewing is real.

<sup>6</sup> Although the LASD and other agencies have already switched to a “sock” style beanbag round that is supposedly to be less prone to penetrate, concerns about this ammunition remain as well. Within the past two years, other law enforcement agencies using these supposedly lower-risk rounds have killed three people, including a 48-year-old Long Beach woman who was hit so hard that the impact tore the wall of her heart. *Id.*

A second problem with beanbag shotguns is that officers can, in the heat of the moment, mistakenly use a real shotgun when they really intend to use a beanbag shotgun. This can happen even though (1) police agencies distinguish the “less-than-lethal” shotguns by spray-painting them with fluorescent colors or wrapping them with bright tape, (the LASD uses yellow tape) and (2) less-lethal stunbag rounds are colored differently than deadly rounds. For example, in the past year alone, two officers — one an officer from the Redondo Beach Police Department and the other a Deputy with the Greenville Sheriff’s Department in South Carolina — mistakenly shot suspects with shotguns loaded with regular 12-gauge slugs rather than the intended stunbag rounds.

The simulator contains several scenarios, each with a number of different endings which are selected by the instructor and vary in response to the actions of the participant. The scenarios cover a wide range, including a burglary in progress, traffic stops, and a domestic dispute.

Impressively, the simulations are truly interactive, with finely tuned electronic sensors reporting to the operator's computer exactly when and where each officer's round strikes the video screen. The computer program then acts upon that information by projecting the "reaction" of the video characters to the gunshots, depending on whether the gunshot was a miss, a non-lethal hit, or a lethal hit. Finally, at the end of the simulation, the computer displays freeze frames with bright red dots indicating where and when each officer's rounds struck.

The SST offers several testing and training benefits. Instructors may assess, among other things, a deputy's:

1. observation skills under a variety of lighting conditions;
2. verbal commands and ability to project authority and gain control;
3. teamwork and communication with partners;
4. posture and positioning;
5. use of cover;
6. reaction time and decisionmaking;
7. weapon draw;
8. counting rounds fired and reloading under stress;
9. shooting stance and grip;
10. weapon sighting, including both target acquisition and tracking;
11. firing technique and accuracy, and response to stress, such as tunnel-vision or auditory exclusion; and
12. de-escalation techniques where appropriate.

Once the exercise is complete, the deputies receive feedback on their judgment, timing, and shot placement. The instructors' analysis and feedback were excellent overall. Some instructors spoke to the finer points of firearms handling, carefully laying out how stress causes tunnel vision, auditory exclusion, distortion of time, muscle rigidity, and the like. They offered concrete suggestions to help compensate for these problems. For example, Laser Village instructor Harold Flynt explained to one pair of officers who had performed rather poorly:

“When it all goes down your body is relying upon its ‘flight or fight’ mechanism. Your brain wants to focus on the threat and will do so by narrowing your field of vision to a small area — we call this tunnel vision. Your brain also wants to screen out extraneous noise — like when you stand at home plate and you can no longer hear the crowd — that’s auditory exclusion. So now your two key perception centers may be compromised. But we can correct for some of that with a couple of techniques....”

Flynt then offered the officers pointers to compensate for their natural reactions to stress. Laser Village instructor Roy Pascuala underscored the need for officers to practice under stressful conditions:

“A lot of different things happen to you physically when you’re under stress. Part of what we’re all about is to introduce officers to those changes so they won’t be experiencing them for the first time out on the street... You can talk about these reactions, like tunnel vision all you want, but you have to experience it firsthand to really understand it and — most importantly — for you to be able to recognize it when it happens in real life.”

A little instruction and practice went a long way — we saw officers who performed badly in the evening come back the next morning and, with a little instruction, perform well.

Although the quality of instruction was uniformly high, we would have preferred the Laser Village staff to have kept better records of how deputies performed. Currently, they only note who took the training and whether the deputy passed or failed. Instead, it would be better if they completed a detailed critique sheet rating the deputy's performance and noting where the deputy had received, or should receive, additional training. In this way, the chances are improved that all deputies will be rated by the same criteria, and instructors could collect valuable information on performance that could be incorporated into training. For example, if 60 percent of the deputies exhibited some mechanical defect in how they drew or pointed their weapons, the information could be fed back to better tailor the training. It would also enable instructors to focus on the deficiencies a deputy exhibited historically when the deputy returns for refresher training. Finally, such records would provide historical data for the next generation of instructors.

In discussing this recommendation with the Laser Village staff, we encountered two concerns: (1) such records might be discoverable in litigation and (2) recordkeeping could in turn diminish the deputies' appetite for Roadshow training, because they would feel like they were being formally "graded." We found neither concern particularly persuasive. As regards discovery, there is no reason for reluctance to produce such records if the LASD is providing appropriate remedial training when a deputy's performance is seriously deficient. And if the remedial training fails to correct the problems, the deputy should not be carrying a gun. As to being "graded," a law enforcement officer who is given a gun and the power to take a life should expect to be tested frequently and rigorously and held to a very tough standard. If a deputy cannot stand the "heat" of being graded, the deputy has no business being on the street with a gun.

## B. Patterns We Observed During Shooting Solutions Training

Our recommendations for grading and recordkeeping are informed in large part by troubling patterns we perceived while observing 188 LASD deputies and twelve police officers in the Shooting Solutions Trailer at the three Roadshows and at one Patrol School class. We watched these officers perform at least three video simulations each, bringing the total number of video simulations we saw to 600. Here is what we saw:

**Scenario 1: Traffic Stop.** The officer(s) make a traffic stop of a couple for speeding on a Sunday morning. The driver is a white female; the passenger a white male — a husband or boyfriend. Both are angry, agitated, and vocal. Both on occasion concealed their hands from view.

*Variation 1:* The woman pretends to fumble in her purse for her license, pulls out a handgun, and, if not shot by the officers, she will fire and drive off.

*Variation 2:* While the female fumbles through her purse, the male passenger angrily exits the car and yells at the officers. The passenger is unarmed and willing to obey commands to return to the car. The female retrieves her license and both she and her companion apologize for getting so angry.

*Variation 3:* Same as Variation 2, except the male passenger not only exits the car, but begins running away, while the female driver yells for him to come back. After running ten yards, the fleeing passenger turns around, produces a handgun, and fires at the officer. If struck by the officers, the suspect will fall to the ground. He will then shoot from a prone position unless shot once again by the officers.



We saw at least 75 officers perform this simulation. With the exception of Variation 1, in which the female draws a weapon, the officers performed this scenario relatively well. Although both citizens were irate and frequently dipped their hands below officers' line of vision, none of the officers fired prematurely. Most officers, however, failed to position themselves at a safe angle or use the cover available to them — a problem we found through virtually all of the simulations we saw.<sup>7</sup>

Of those officers presented with Variation 1, where the female driver produces a gun and attempts to fire, roughly half the officers failed to fire their guns accurately or on time. Significantly, the officers (all male) seemed to exhibit some gender stereotyping: an apparent tendency to perceive the passenger — a male — as the greater potential threat, even though his actions were no more threatening than his female companion's. One officer remarked, "You know, I could sort of see she was fumbling around in that purse forever, but I never saw the gun until she fired." Another admitted, "I was looking at him — I was just looking at him. And she shot me."<sup>8</sup>

The Laser Village instructors handled these failures exceptionally well. In just a few sentences, they reminded officers that in addition to carrying their tactical and legal knowledge with them, they also carried personal values, which might sometimes get in the way. Without exception, the instructors applied the proper mix of admonition and positive reinforcement.

<sup>7</sup> On the other hand, the fact that the simulated cover was a plywood "brick" wall might not have been convincing enough for officers to feel comfortable ducking behind it. Perhaps the LASD should follow the lead of the Orange County Sheriff's Department, which provides its officers with real Postal Service mailboxes in its video simulation training. When we went to Orange County to observe the Sheriff's Department's firearm simulation training and contrast it to the LASD's, the Orange County deputies routinely took cover in response to a threat upon the screen.

<sup>8</sup> We also note in passing that in virtually all of the video simulations used by the LASD, the perpetrators are Caucasian. We saw only one scenario involving Latinos and none involving Asians or African-Americans. We rather suspect that this was not a mere coincidence, and the manufacturer of the software sought to avoid controversy by excluding minorities.

The question remains, however, whether LASD officers faced with video simulations involving Latino or African-American suspects would perceive a greater threat than when confronting a white suspect and react accordingly. The issue warrants further study, particularly given recent research indicating that racial stereotyping may indeed affect threat assessment. We intend to look at this issue in the future.

**Scenario 2: Purse Robber.** The officers are part of an undercover operation to catch a male purse snatching suspect one afternoon in a business parking lot. The suspect, a white male fully visible to the officers, is hiding behind a van, while a female undercover officer walks toward him as bait. There is a male bystander walking a few yards behind the female officer.

*Variation 1:* The suspect grabs the woman and orders her to give up her purse. He then disengages in response to the officers and repeatedly states, “ID? I’ll give you ID . . .” while reaching with his right hand into his right rear pocket or waistband. The suspect produces a handgun and begins firing. If shot, the suspect will fall to the ground and try to fire from a prone position unless shot again. If missed, the suspect runs off past the female officer and the bystander.

*Variation 2:* Same as Variation 1, except that after fumbling in his rear pocket, the suspect produced a wallet instead of a handgun. He then complies with officers’ verbal commands.

*Variation 3:* The suspect grabs the female officer in a head lock, pulls a knife, and holds it next to her throat. If the officers fail to shoot him in time, the suspect will stab his victim at least twice and then run past the bystander. If shot, the suspect falls to the ground.

We saw a total of 108 officers undergo this simulation. Two accidentally shot the bystander (who, rather eerily, had mistakenly not been programmed to react to the gunfire), and another officer shot the female officer in the forearm while aiming for the suspect’s weapon. None of the officers fired prematurely, and of the 14 officers presented with Variation 2, where the suspect produces a wallet from pocket despite making vague verbal threats, all 14 judiciously held their fire until they could see what the suspect was holding. Marksmanship and timing could have been better, but overall were satisfactory. But 102 of the 108 officers failed to use the cover that was available to them, and in several

instances, the instructors neglected to point out this problem. Nonetheless, overall, the Laser Village instructors handled the scenario very well, although they went too easy on the three officers whose errant rounds struck the bystander or the victim. We were also troubled that the instructors did not record which officers had fired the errant rounds — a problem which illustrates why we recommend that careful records be kept of how individual officers perform during the simulations.

**Scenario 3: Rape / Shots Fired Call.** Officers are told they are responding to a “possible 262” (rape) call at a house, with reports that (1) a woman was heard screaming and (2) two shots may already have been fired. The video scenario begins with officers approaching the bedroom (with guns drawn in low-ready position), from which they can hear a woman screaming. Officers then see a fully-clothed white male atop a fully clothed, struggling female on a bed. As the room emerges into view, the male leaps off the bed (within 10 feet of the officers) while the female remains screaming and sobbing on the bed. The scene is quite loud and confusing; there is a lot of movement by both the suspect and the victim.

*Variation 1:* The male suspect disobeys officers’ commands and reaches toward his rear pocket / waistband, produces a handgun, and fires at the officers. If shot, he will fall and be incapacitated.

*Variation 2:* As the man leaps up from the bed, one can see a large knife in his right hand, which is directed toward the victim. However, if the officers do not shoot, the suspect will obey officers’ commands to drop the weapon.

*Variation 3:* The man leaps from the bed and yells at the officers that the woman is his wife and they should get out of his house. Neither he nor the woman presents any further threat.

*Variation 4:* The male leaps from the bed, raises his both hands, and surrenders. However, the “victim,” still crying and hysterical, reaches over to her nightstand and produces a handgun from the top drawer, and points it at the male suspect. Her hands are shaking. If the officers do not fire their weapons, she will comply with commands to drop the gun.

We found this scenario fascinating, observing 61 LASD deputies go through it. Only one did poorly: In Variation 2, one of the two deputies in the exercise told the male suspect to drop his knife. Just as the suspect began to comply and drop the knife, the deputy, who had fewer than two years in patrol, reacted precipitously and shot the suspect once in the side of the chest. The other deputy participating in the same exercise held his fire. Although the deputy who had fired knew he had made a serious mistake, the instructor missed an opportunity to provide guidance — he should have said something along the lines of, “When you command a suspect to drop a knife, you are telling him to move, and thus you need to hold your fire to see if he is complying and not simply react to movement alone.”

We were interested particularly by the officers’ reaction to Variation 4, in which the male “suspect” raises his hands in surrender while the weeping female “victim” pulls a gun from a nightstand and shakily points it at the male. As the variation is portrayed in the video, if the woman decided to fire, officers would be unable to stop her before at least one round struck the male suspect. It was our judgment that a reasonable officer under those circumstances could have lawfully used deadly force. Yet 21 of the 23 officers held their fire. As the video plays out, this decision pays off, as the woman does not fire, but relinquishes the weapon.

This scenario also raised an issue of gender stereotyping. As it turned out, the decisions to shoot or not shoot broke down nearly precisely by gender. Of the 23 officers we saw participate in Variation 4, 20 were male and three were female. Of the 20 men, none fired at the armed female suspect, even though, as

we mentioned, she clearly was in position to shoot and kill the male suspect. In contrast, of the three women who were tested under this variation, two did not hesitate to fire under the exact same circumstances. Perhaps the males viewed women, even armed women, as lesser threats than they viewed men in general. Perhaps females are better at discerning threats from a woman. Although the sample we reviewed was too small, and the video simulation a less-than-ideal vehicle for testing the hypothesis, the pattern was intriguing.<sup>9</sup> Two male Laser Village instructors opined that, in their experience, male officers were indeed generally less willing to fire when the suspect in the simulations was a woman.

Other interesting patterns emerged. First, deputies almost never began their contacts with suspects by identifying themselves as police officers. For example, in Scenario 3 (the Purse Robber), Laser Village instructors told the participants that they were part of a *plainclothes* sting operation — i.e., they were not readily identifiable as police officers. Notwithstanding, of the 106 officers we saw participate in this training, only two had the presence of mind to identify themselves as police officers before drawing their guns. The remainder immediately drew their guns and started barking out commands or simply said nothing at all, thereby putting themselves at great risk of getting shot themselves by leaving room for the suspect to conclude that they might be criminals instead of cops. Only twice did Laser Village instructors point out and correct these serious failures.

LASD deputies in the simulations were generally deficient in using verbal commands. Since deputies use such commands in the field on a daily basis, our expectation would have been that all experienced patrol officers would do well. But of the 141 experienced LASD patrol deputies we observed, 51 (36 percent)

<sup>9</sup>The video is less than ideal for testing this hypothesis because (1) the female was initially portrayed as a possible sexual assault victim; (2) she held the gun with visibly shaking hands; and (3) she was visibly weeping. While it is true that a woman in these circumstances could still have intentionally or even accidentally shot and killed the male suspect, these additional factors may have contributed to, or even constitute the only reasons for the male officers' decision to hold fire. Nonetheless, the fact that only female officers opened fire raises enough of a question to warrant further study.

failed to use verbal commands in a timely fashion, or with confidence and authority, or in an effective manner. In roughly half of those cases the officers said little, if anything, to the suspects. The other half were either too timid or gave ill-considered commands.<sup>10</sup>

We observed also that a quarter of the 188 LASD deputies had difficulty pulling, aiming, or sighting their weapons. For example:

- Eight patrol-experienced officers pulled their weapons out of their holster only to leave the gun dangling down at their side while they tried to make sense of what was going on in the video. In three pulse-quickening instances, the muzzle of an officer's loaded gun was actually pointing backwards, toward the feet of the Laser Village instructor — and one of our staff.
- Four officers who, after initially pulling their guns out into a two-handed “low ready” position, later began gesturing toward the video suspects with their weak hand, meaning that they put themselves in jeopardy of shooting their own hand. The Laser Village instructor gingerly pulled their hands out of the line of fire.
- Thirteen officers fired rounds missing the screen entirely, with two officers firing rounds into the floor of the trailer.

<sup>10</sup> In eleven cases, LASD officers, confronting a suspect standing before them who was actively reaching in his pocket or waistband for something, yelled out the same verbal command each time: “Show me your hands!” In each of these cases, the suspect brought his hand forward and fired at the officer. Many of these cases took place in front of Laser Village instructor Harold Flynt, who was effective in teaching the officers to use more appropriate commands. For example, in one case Flynt explained to an officer:

“You guys do so many traffic stops that you are on automatic pilot with this, ‘Show me your hands!’ business. In this one [a video not involving a traffic stop] you told him [the suspect, who was reaching in his back pocket or waistband] to show his hands. So now what are you forced to do? Well, now you have to wait until his hand comes back up front before you know whether he’s compliant. And if that hand sweeps back with a gun, you’ve just lost a fraction of a second you cannot afford to give away. You’ve just seen him commit a 211 [robbery], so we know he’s a bad guy.

What might you do instead? If you think that guy there [the robbery suspect] might be reaching for something, try yelling “Freeze.” That way, if he keeps reaching back, you know right away what? Right. He’s being *noncompliant*. But he isn’t yet pointing a gun at you. So now you can take that extra moment to take cover or get ready to [fire].”

Finally, we noted that eleven officers (about 6 percent of the total) appeared to “freeze” during one or more of the scenarios. They either failed to shoot when called upon to do so, or they fired after the suspect on the screen had already “killed” them. Although one might expect that these cases would involve inexperienced deputies undergoing Patrol School training, this was not the case — nine of the eleven were active patrol officers.

Typically these officers “froze” during their first video scenario and loosened up somewhat during the second or third scenario.<sup>11</sup> Nonetheless, in each case the Laser Village instructor recognized the problem and, without drawing undue attention to the matter, offered helpful coaching, sometimes inviting the officer to come back the next day. In short, the Laser Village instructors handled each such incident superbly, and we saw substantial improvement in the officers’ performance.

We draw attention to these examples to illustrate the need for more frequent training. But we do not mean to leave the impression that most deputies performed poorly in the video simulations. Most performed reasonably and some flawlessly.

<sup>11</sup> We do not use the terms, “freeze” or “froze” lightly or disrespectfully. Rather, they seem the most apt way to capture the officers’ conduct which, fascinatingly enough, was almost identical in each case. Specifically, as video scenario became more stressful:

- Where other officers gave forceful commands, these officers were either completely silent or spoke quietly, using an almost plaintive tone;
- Where other officers assumed athletic stances and seemed agile and limber, these officers looked like statues. They uniformly assumed an awkwardly upright posture and their limbs seemed completely rigid; and
- Where other officers seemed hyper-vigilant yet under control, these officers seemed to have some difficulty breathing, with a few almost gasping for air after the scenario ended.

Each of these incidents was deeply sobering, because if the video scenarios had been played out in real life, these officers almost certainly would have been killed.

## *Conclusion*

The fundamental problem with Laser Village training is short supply. Last year, Laser Village Sergeant Dave Furmanski presented a written proposal to add eight additional Laser Village instructors who could keep the Roadshow active on a daily basis, while the rest of the staff remained at Laser Village to fill existing Academy, Patrol School, and CPT needs. Had the proposal been adopted, LASD officers would have been able to undergo refresher training once a year. Although yearly training exceeds the current biannual POST requirements, our observation of many “rusty” deputies made us wonder if the POST standards might be too lax. Accordingly, it would be better if the LASD would follow the lead of a number of smaller agencies in southern California — such as the Santa Monica, Burbank, West Covina, Torrance, and Anaheim Police Departments — and provide refresher tactical firearms training each year. “It’s simple,” noted one non-LASD firearms instructor, “increased proficiency and confidence often translates into less use of force.”

Also, it would be better if Laser Village instructors rolled out to all officer-involved shootings. Currently, the Department relies exclusively upon the Force Training Unit (FTU) to critique a shooting from a training, tactics, and strategy perspective. Members of the FTU advocate for inclusion of Laser Village instructors in the rollouts because they believe that the instructors would deepen the analysis, particularly in shootings resulting from a panicky or uncontrolled response by the officer. Additionally, the firearms instructors could sharpen the inquiry whether gunfire was the best option presenting the least risk to the officers or bystanders. Finally, participation by the instructors will enable them better to incorporate the lessons learned from individual shooting cases into future tactical training.

Lastly, careful records should be maintained concerning each deputy’s performance while undergoing Laser Village training and become part of the deputy’s training file. This will enable the instructors to focus better on



whether deficiencies noted one year have improved by the next. This in turn will enhance the instructors' ability to shape the training to the problems most often presented.

In sum, the level of instruction and dedication by the Laser Village staff was impressive. The instruction plays a key role in effective risk management by teaching deputies not only when and how to shoot, but also when and how to hold their fire. The instruction sharpens skills not only with regard to lethal weapons but also less lethal ones. Accordingly, these key functions merit greater resources and support.

## 6 . W h a t S p e c i a l C o u n s e l D o e s

Recently, the Board of Supervisors reappointed Special Counsel, a position first created in 1993 in the aftermath of the **Kolts Report** to monitor the efforts of the LASD to implement sweeping reform. Special Counsel's First Semiannual Report was issued in October 1993. The public Reports provide unprecedented detail about the internal workings of the LASD.

The County of Los Angeles retained Special Counsel to review the Sheriff's Department and its operations and activities so that Special Counsel might, among other things, render legal advice and make confidential recommendations to the County, with particular attention to areas of potential litigation risk or exposure. Without compromise of the attorney-client privilege or the work product rule, Special Counsel also prepares the public Reports which are intended primarily to assist the Board of Supervisors in its ongoing responsibilities regarding the operations and activities of the LASD by identifying areas in which reforms may be advisable or could be undertaken. Similarly, the Reports provide guidance to the Sheriff and inform the public at large.

In preparing the Reports, Special Counsel and staff interview, among others, members of the LASD and review documents maintained by the Sheriff's Department and the County, as well as internal LASD reports and statistical compilations. None of these interviews is conducted under oath. While we stand fully behind each report and its accuracy, and find the information obtained in the interviews and document reviews useful and necessary for the overall prophylactic purposes of the Reports (i.e., to identify problem areas and potential litigation or other risk within the LASD), we do not conduct our interviews nor prepare the Reports in a manner calculated to make them, or the information behind them, admissible under state or federal Rules of Evidence.

We are given unobstructed access to the records of the County and the Department on the specific written understanding that the documents and the information therein are specifically protected from disclosure by the official information privilege in that they are confidential and are not available to the

public. We also understand that these documents are made available to us on an attorney-client basis. We at all times preserve the confidentiality of these records, documents, and information.

During interviews, we advise the people we speak with that we are acting as Special Counsel for the County of Los Angeles and are conducting the interview in the course and scope of that representation. We explain that the information provided is confidential and represent that it is protected from disclosure by, among other things, the attorney-client privilege. We believe this confidentiality promotes free and frank discussion and that without being able to maintain it, we could not do our job.

In preparing the Reports, we are careful to protect the confidential nature of the information learned from the LASD. In discussing potential problem areas, the Reports do not identify any individual by name or provide additional information to identify those involved. When references to specific personnel are made, they are referred to generically as the 'deputy' or 'Deputy A.'

Unless specifically directed by the Board of Supervisors, our mission is not one of fact finding as such, and to the extent we might be asked specifically to find facts in a given instance, our communications with the Board are not publicly disclosed and are privileged and confidential and intertwined with legal advice that County Counsel or we render to the Board. Because our general responsibility is not to find fact but to investigate and point out existing or potential problems and risks, we do not conduct our investigation in the same way we might if our responsibilities encompassed an obligation to make a finding of misconduct or fault by the LASD or of its deputies or personnel. The mission given to us by the Board does not include the fixing of fault or blame, the determination that someone is right or wrong, or making a finding that wrongful conduct occurred, and we avoid doing those things. Although the Reports often disclose in a very frank and open way observations and opinions about matters in issue, the focus is on identification of problems, possible solutions, and mechanisms to better identify and manage risk.

As we have noted repeatedly, the Reports focus on problems and risk in the LASD and what might be done about them. The Reports cite to and acknowledge but do not dwell upon the good work done by the men and women of the LASD and the contribution to public safety made by the LASD and its personnel. We have said before, and say again, that the LASD is, in some ways, at the forefront of American law enforcement and that the suggestions, criticisms, opinions, and observations in the Reports are calculated to make a generally well-managed agency better. Accordingly, it is important to recognize that the Reports focus on limited areas where special attention may be needed and, to that end, serve the reporting and remedial purpose for which Special Counsel was retained. In creating and maintaining the office of Special Counsel, the Board of Supervisors has embarked upon an unprecedented and unique method to perform civilian oversight of law enforcement. The Reports are intended to assist the Board in its task of gathering views and opinions in order to give direction to the County and its departments. The Reports assist the Board in taking steps to identify and manage problems in their incipiency and to order or recommend remedial and other measures where prudent.

The Reports serve other purposes as well. The public nature of the Reports of Special Counsel, with their frank discussion, opinions, and observations, have bolstered public confidence that the LASD's problems are not being ignored or swept under the rug. The Reports are perceived as holding the LASD to account, and vocal public discontent with the LASD and its practices has diminished in the years since the **Kolts Report** and the initiation of the Semiannual Reports. To the degree that the public perceives the orders and recommendations of the Board of Supervisors based upon the Reports are accepted and implemented by the LASD, public confidence in the competence and integrity of the LASD is enhanced. In turn, greater public confidence in law enforcement has led to greater cooperation with the LASD, thereby enhancing its ability to fight crime, to gain necessary information and trust from the public, and correspondingly to keep its deputies and other personnel safer as

they go about inherently risky duties.

As noted before, the Reports, while as thorough, accurate, and carefully drawn as we can make them, are not calculated to find fact like a grand jury might. Nor do the Reports create evidence or discoverable material for adversaries in litigation. Any attempts to use the Reports in litigation or for pecuniary gain therein should be soundly resisted by the courts. To do otherwise is to irreparably damage this unique and fruitful experiment in meaningful civilian oversight of law enforcement.

**Litigation Table 1**

**LASD Litigation Activity, Fiscal Years 1992-2002**

	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02
New Force Related Suits Served	88	55	79	83	61	54	41	54	67	78
Total Docket of Excessive Force Suits	381	222	190	132	108	84	70	83	102	71
Lawsuits Terminated										
Lawsuits Dismissed	79	90	60	42	39	27	20	24	34	21
Verdicts Won	22	9	10	6	3	6	1	1	4	3
Verdicts Against LASD	3	7	3	5	2	1	2	2	0	1
Settlements	70	81	103	82	41	45	32	13	21	23

**Lawsuits Terminated F/Y 2001-2002**

	Dismissed	Settled	Verdicts Won	Verdicts Against	Totals
Police Malpractice	96	65	7	2	170
Medical Malpractice	12	5	0	0	17
Traffic	8	33	1	2	44
General Negligence	8	3	0	0	11
Personnel	3	2	5	1	11
Writ	3	3	4	1	11
<b>Total</b>	<b>130</b>	<b>111</b>	<b>17</b>	<b>6</b>	<b>264</b>

**Active Lawsuits by Category 1998-02**

	7/198	7/1/99	7/1/00	7/1/00	7/1/02
Police Malpractice	224	247	341	299	322
Traffic	47	43	37	50	57
General Negligence	7	8	3	12	9
Personnel	19	22	16	16	13
Medical Malpractice	22	28	25	30	31
Writs	8	6	13	15	8
<b>Total</b>	<b>327</b>	<b>354</b>	<b>435</b>	<b>422</b>	<b>440</b>

## Litigation Table 2, FY 2001-2002 Department Financial Summary

	Dept. Funded	Contract City Funded	MTA Liability Funded	Totals
<b>Lawsuits</b>				
Police Liability	\$6,940,720.67	\$1,664,000.00	\$8,500.00	\$8,613,220.67
<i>(Portion of Total for Alleged Excessive Force)</i>	<i>\$5,025,936.00</i>	<i>\$1,353,000.00</i>	<i>\$0.00</i>	<i>\$6,378,936.00</i>
Personnel Issues	\$782,967.00	\$0.00	\$0.00	\$782,967.00
Auto Liability	\$379,671.75	\$113,833.28	\$15,000.00	\$508,505.03
Medical Liability	\$183,999.99	\$0.00	\$0.00	\$183,999.99
General Liability	\$105,000.00	\$0.00	\$0.00	\$105,000.00
Writs	\$16,782.85	\$0.00	\$0.00	\$0.00
<b>Lawsuit Total</b>	<b>\$8,409,142.26</b>	<b>\$1,777,833.28</b>	<b>\$23,500.00</b>	<b>\$10,210,475.54</b>

### Claims

Police Liability	\$137,766.83	\$7,369.45	\$460.73	\$145,597.01
<i>(Portion of Total for Over Detentions)</i>	<i>\$29,725.00</i>	<i>\$0.00</i>	<i>\$0.00</i>	<i>\$29,725.00</i>
Personnel Issues	\$0.00	\$0.00	\$0.00	\$0.00
Auto Liability	\$189,423.02	\$37,464.28	\$2,563.24	\$229,450.54
Medical Liability	\$141.50	\$0.00	\$0.00	\$141.50
General Liability	\$1,284.13	\$0.00	\$0.00	\$1,284.13
<b>Claim Total</b>	<b>\$328,615.48</b>	<b>\$44,833.73</b>	<b>\$3,023.97</b>	<b>\$376,473.18</b>

**Incurred Claims/  
Lawsuits**

	\$8,737,757.74	\$1,822,667.01	\$26,523.97	\$10,586,948.72
<b>Liability Total</b>				
Fiscal Year 2000/01 Total	\$18,718,421.00	\$492,489.00	\$10,525.00	\$19,221,435.00
Fiscal Year 1999/00 Total	\$7,002,511.00	\$479,227.00	\$387.00	\$7,482,125.00
Fiscal Year 1998/99 Total	\$5,298,092.00	\$27,926,889.00	N/A	\$33,224,981.00
Fiscal Year 1997/98 Total	\$6,006,592.00	\$2,856,734.00	N/A	\$8,863,326.00

### Litigation Table 3, Force Related Judgments and Settlements

FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02
\$17 million*	\$3.72 million	\$1.62 million	\$27 million**	\$4.6 million***	\$2.9 million	\$6.4 million

\* Includes \$7.5 million for Darren Thompson paid over three years.

\*\* Includes approximately \$20 million for 1989 Talamavaio case.

\*\*\* Includes \$4 million for Scott and \$275,000 for Anthony Goden.

### LASD Force Force Table 1

Department Wide*	2000	2001	2002
Force Incidents (Total)	2233	2190	2399
Total Force/100 Arrests	2.31	2.31	2.60
Significant Force: Hospitalization/Death/100 Arrests	0.02	0.01	0.02
Significant Force: Visible Injury/100 Arrests	0.52	0.52	0.63
Significant Force: Complaint of Pain/100 Arrests	0.30	0.37	0.37
Significant Force: No Complaint of Pain/Injury/100 Arrests	0.31	0.35	0.42
Less Significant Force Incidents	0.45	0.43	0.75
OC Spray/100 Arrests	0.71	0.63	0.41

Field Operation Regions (FOR)	2001	2002
Region I Force Incidents	349	401
Per 100 Arrests	1.19	1.40
Region II Force Incidents	584	568
Per 100 Arrests	1.85	1.96
Region III Force Incidents	353	271
Per 100 Arrests	.21	0.96
FOR Total Force Incidents	1286	1240
Per 100 Arrests	1.43	1.45

Field Operation Regions (FOR)	2001	2001
Regions I, II & III Significant Force	739	1329
Per 100 Arrests	0.82	1.44

\*Includes all patrol stations and specialized units, including custody and court services.



## LASD Force Table 2, Force/100 Arrests All Patrol Stations 2002

Station	2000	2001	2002
Altadena			1.87
Crescenta Valley	0.9	1.2	0.53
East LA	1.32	1.04	1.38
Lancaster	1.09	0.92	1.39
Lost Hills/Malibu	0.52	0.86	0.67
Palmdale	2.05	1.79	1.81
Santa Clarita	1	1.15	1.42
Temple	1.36	1.52	1.28
<b>Region I Totals</b>	<b>1.22</b>	<b>1.21 *</b>	<b>1.40</b>
Carson	1.61	1.33	1.44
Century	1.71	2.42	2.29
Compton	2.44	1.71	8.59
Lomita	2.06	1.5	2.32
Lennox	1.29	1.31	1.41
Marina del Rey	0.81	1.42	2.17
Metrolink			0.87
Transit Services Bureau			1.71
West Hollywood	2.36	2.19	2.29
<b>Region II Totals</b>	<b>1.59</b>	<b>1.87 *</b>	<b>1.96</b>
Avalon	0.96	2	1.43
Cerritos	0.73	1.2	1.65
Industry	1.34	1.16	0.71
Lakewood	1.55	1.35	1.39
Norwalk	0.85	1.16	0.90
Pico Rivera	0.96	0.97	0.67
San Dimas	0.77	1.17	0.83
Walnut	0.78	0.78	1.03
<b>Region III Totals</b>	<b>1.17</b>	<b>1.21 *</b>	<b>0.96</b>

Source: LASD/MIS/CARS - 06/19/02

\* We are unable to say why the LASD produced numbers here that vary somewhat from those shown on Table 8c. As we have noted in the past, the LASD should tighten its statistical practices.

### Los Angeles Police Department (LAPD) Shootings Table 1

Year	Total # of OISs	# of Hits	# of Suspects Injured	# of Suspects Killed
1996	122	54	27	27
1997	114	41	17	24
1998	98	23	10	13
1999	97	23	9	14
2000	79	33	22	14
2001	66	22	15	7
2002	77	35	20	15

Year	Total # of Non Hits	# of Accidental Discharges	# of Animal Discharges	Other
1996	29	11	29	1
1997	23	11	35	4
1998	12	13	45	5
1999	16	16	42	1
2000	11	6	29	NA
2001	13	11	20	NA
2002	21	10	11	NA

### LASD Shootings Table 1, 2002 Hit Shootings by Unit

	1997	1998	1999	2000	2001	2002
<b>Number Of Incidents</b>	<b>35</b>	<b>20</b>	<b>22 *</b>	<b>18</b>	<b>19</b>	<b>22</b>
Altadena Station	NA	NA	0	1	0	
Carson Station	1	0	2	1	1	2
Carson/Safe Streeys Bureau						1
Century Station	7	7	1	2	5	5
Century/Norwalk/SEB	NA	NA	NA	0	1 **	1
Court Services Bureau	1	1	0	NA	NA	
East Los Angeles Station	2	0	2	2	0	
Industry Station	NA	NA	NA	0	1	1
Lakewood Station	2	2	2	0	2	1
Lancaster Station	7	2	0	1	0	1
Lennox Station	1	2	4	0	4	2
Mira Loma Facility	0	1	0	NA	NA	
Miscellaneous Units	0	2	0	NA	NA	
Narcotics Bureau	0	0	1	1	0	
Norwalk Station	3	1	0	1	0	1
Palmdale Station	0	1	1	1	0	3
Pico Rivera	0	0	1	0	0	1
Safe Streets Bureau	1	1	0	NA	NA	1
San Dimas						1
Santa Clarita Valley Station	NA	NA	1	1	0	
Special Enforcement Bureau	2	0	2	2	2	
Temple Station	6	0	2	3	1	1
			<i>(1 off duty)</i>			
Walnut Station	1	0	0	0	1	
West Hollywood Station	1	0	2	NA	NA	
<b>Number of Suspects Wounded</b>	<b>17</b>	<b>18</b>	<b>12</b>	<b>6</b>	<b>8 **</b>	<b>11</b>
<b>Number of Suspects Killed</b>	<b>20</b>	<b>11</b>	<b>10</b>	<b>12</b>	<b>12</b>	<b>11</b>

\* In the Temple Station shooting (11-21-99), two suspects were wounded, in the SCV Station shooting (6-13-99), no suspects were killed or wounded but one deputy was hit by friendly fire.

\*\* In the Century Station shooting (2-18-01), two suspects were wounded

### LASD Shootings Table 2, 2002 Non-Hit Shootings by Unit

	1997	1998	1999	2000	2001	2002
<b>Number Of Incidents</b>	<b>35</b>	<b>20</b>	<b>8</b>	<b>15</b>	<b>14</b>	<b>16</b>
Asian Crime Task Force						1
Carson Station	1	0	1	2	0	1
Century Station	77	4	0	2	6	3
					<i>(1 off duty)</i>	
Century/Compton Transit Services	NA	NA	NA	2	1	
Cerritos						1
Compton						2
East Los Angeles Station	0	3	3	1	1	1
Industry Station	1	2	NA	2	6	2
Lakewood Station	1	1	NA	2	0	
Lancaster Station	1	0	NA	NA	NA	1
Lennox Station	4	2	1	0	1	1
Marina del Rey	NA	NA	NA	0	1	
Men's Central Jail	1	0	NA	0	1	
Narcotics Bureau	NA	NA	1			
Norwalk Station	0	1	1			2
Palmdale Station	1	0	NA	0	1	
Pico Rivera	0	0	0	2	0	0
Safe Streets Bureau	0	0	1	0	1	
Santa Clarita Valley Station	NA	NA	NA	2	0	
Special Enforcement Bureau	1	0	0	1	1	
Temple Station	1	0	0	1	0	1
TRAP	NA	NA	NA	0	1	
					<i>(1 off duty)</i>	
Twin Towers	NA	NA	NA	NA	NA	
Walnut Station	0	1	NA	NA	NA	
<b>Incidents Resulting in Force/Shooting Roll-Out</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
	<b>126</b>	<b>112</b>	<b>86</b>	<b>91</b>	<b>87</b>	<b>92</b>

### LASD Shootings Table 3

	1996			1997			1998		
	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>
Hit <sup>1</sup>	22	3	25	33	2	35	15	5	20
Non-Hit <sup>2</sup>	15	4	19	17	3	20	15	0	15
Accidental Discharge <sup>3</sup>	24	2	26	7	1	8	11	2	13
Animal <sup>4</sup>	38	0	38	31	5	36	37	1	38
Warning Shots <sup>5</sup>	0	0	0	0	0	0	0	0	0
Tactical Shooting <sup>6</sup>	3	0	3	1	0	1	0	0	0
<b>Total</b>	<b>102</b>	<b>9</b>	<b>111</b>	<b>89</b>	<b>11</b>	<b>100</b>	<b>78</b>	<b>8</b>	<b>86</b>

	1999			2000			2001		
	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>
Hit	21	1	22	18	0	18	19	0	19
Non-Hit	8	0	8	15	0	15	11	3	14
Accidental Discharge	4	0	4	11	1	12	9	4	13
Animal	33	1	34	35	2	37	33	1	34
Warning Shots	1	0	1	2	0	2	0	0	0
Tactical Shooting	1	1	2	0	0	0	0		
<b>Total</b>	<b>68</b>	<b>3</b>	<b>71</b>	<b>81</b>	<b>3</b>	<b>84</b>	<b>72</b>	<b>8</b>	<b>80</b>

	2002		
	<i>On Duty</i>	<i>Off Duty</i>	<i>Total</i>
Hit	22	0	22
Non-Hit	16	0	16
Accidental Discharge	12	1	13
Animal	35	5	40
Warning Shots	0	0	0
Tactical Shooting	1	0	0
<b>Total</b>	<b>86</b>	<b>6</b>	<b>92</b>

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