

*The Los Angeles County*

# **Sheriff's Department**

**1st Semiannual Report by**

**Special Counsel Merrick J. Bobb & Staff**

**October 1993**



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# **1 . I n t r o d u c t i o n**

In December, 1991, the Board of Supervisors of Los Angeles County appointed Judge James G. Kolts to serve as Special Counsel to the Board and to investigate and review the operations of the Los Angeles County Sheriff's Department as they related to allegations of excessive force, the community sensitivity of deputies, and the Department's citizen complaint procedure. In July, 1992, Judge Kolts and his staff issued the Report and recommendations.

The Sheriff's Department submitted a written Response to the Kolts Report in October, 1992. Therein, the Sheriff's Department confirmed its fundamental agreement with 156 of approximately 180 Kolts recommendations and committed to implement them. In November and December, 1992, the Board of Supervisors held hearings on the Kolts Report and the Sheriff's Response. Supervisor Ed Edelman, Chairman of the Board, urged at those hearings that Sheriff Block meet with Judge Kolts to resolve differences with respect to those recommendations where disagreement remained. Those meetings took place in the last two months of 1992 and culminated in the Joint Statement of Sheriff Block and Judge Kolts of January 4, 1993, the text of which is set forth at Appendix A hereto. In a letter of January 4 transmitting the Joint Statement to the Board of Supervisors, Sheriff Block and Judge Kolts announced resolution of remaining major differences and pledged to work toward implementation of the Kolts recommendations.

On January 5, 1993, the Board of Supervisors accepted the Kolts Report and unanimously adopted a Resolution by Chairman Ed Edelman to implement its recommendations. In its Resolution, the Board noted that "much work remains to be done and this Board needs ongoing assistance to ensure that progress continues." To that end, the Board of Supervisors designated Merrick Bobb to serve as Special Counsel to the Board of Supervisors to report to the Board at six-month intervals over the next three years regarding LASD's implementation of the Kolts recommendations. In June, 1993, the Board entered into a contract with Special Counsel to formalize procedures for the three-year monitoring.

This is the first Report of Special Counsel and Staff regarding implementation of the Kolts recommendations. We have completed a three month review of the Sheriff's Department. **We are guardedly optimistic. The Sheriff's Department has made significant progress in the last year on the road to implementation of many of the Kolts recommendations and the Department's own initiatives regarding use of force. The progress to date is worthy of commendation in its own right and additionally because it has occurred in the context of a severe budgetary crisis in Los Angeles County that has had a material detrimental impact upon the Sheriff's Department. As discussed herein, there are still formidable financial hurdles to overcome. Because of these impediments, and also because of a worry about cynicism and resistance within the Department, we must temper our hope with caution.**

Last year, Judge Kolts found deeply disturbing evidence of excessive force and lax discipline and issued a report which the Judge characterized as somber and sobering. This year, we find reasons to be hopeful. It appears to us that top management is working to bring about needed change and the message is slowly filtering down the ranks. We particularly commend the Department for the focused attention it is giving to some of its problem stations.

Moreover, there are initiatives in their early stages of implementation or on the drawing board which should give the Sheriff's Department the ability to deal early with those officers who demonstrate a potential to use gratuitous force, to manage risk by reducing potential exposure, to impose fair discipline, to learn from past mistakes, and to improve the quality of training.

We want particularly to acknowledge the momentum and vigorous leadership provided by Chief Michael Graham, who was selected by Sheriff Block to head the Professional Standards and Training Division and the Kolts Response Implementation Team. That Team, which was established in January, 1993 to oversee implementation of

the Kolts recommendations, has done an extraordinary job. Its members are bright, motivated, well-organized, and wise in the ways of the LASD bureaucracy. The Team has accomplished a great deal in a skillful way.

In January, 1993, the Sheriff's Department underwent a major internal restructuring with the creation of the Professional Standards and Training Division, or PSTD. The new division combined the functions of the previous Office of Professional and Ethical Standards, or OPES, with many of the functions previously performed by the Administrative Division, including all the functions the Training Bureau, which has responsibility for recruiting and Academy and post-Academy education. As did his predecessor at OPES, Chief Graham reports directly to Sheriff Block. The Division has the principal responsibility to formulate, recommend, and ultimately to implement a Department-wide strategy to eliminate excessive force and hence to manage risk.

The Board of Supervisors commissioned the Kolts Report in part because the County had expended at least \$38 million in settlements, judgments, and legal fees on excessive force cases in the five years preceding the Kolts Report. As of July 1, 1993, that figure climbed to approximately \$50 million for the period from 1987 to July, 1993. Clearly, moral and ethical objections to unwarranted and gratuitous force are more important than the dollars involved. Nonetheless, one path to reduction of excessive force is figuring out how to avoid litigation and its high costs. That task requires careful attention to how the LASD controls the way its officers use force and deals with its consequences. The PSTD, then, merits continuing scrutiny of its programs to reduce the Department's exposure and the taxpayer's corresponding tax burden for judgments, settlements, and litigation expense for excessive force.

The Division is composed of the Internal Affairs Bureau, the Internal Criminal Investigations Bureau, the Risk Management Bureau, the Training Bureau, and the Advocacy Unit. The idea behind this consolidation is to manage under one Division the activities of the Department which present litigation risks or involve the investigation

of potential wrongdoing. Because of the overlap between this responsibility and implementation of the Kolts Recommendations, the Kolts Response Implementation Team is part of this Division. The addition of the Training Bureau means that information developed about risky conduct can be considered immediately for its training implications. One day, PSTD likely will also manage litigation in conjunction with the County Council.

The Department now integrates previously dispersed information about deputy performance, and the PSTD integrates that data with other previously dispersed information about risk, direct and indirect costs of litigation, and administrative claims. The Division will then analyze the data to recommend policies and strategies to reduce risk, cost, and exposure. In this sense, our mission and the mission of the PSTD have common elements. The shared aim is to find ways to eliminate unwarranted and gratuitous force.

Risk management within the LASD, of course, covers more than reduction of excessive force. It includes LASD participation in the management of litigation to shape strategy and control costs, active involvement by the LASD in decisions to settle or try individual cases, and deployment of LASD investigatory resources so that the Department and counsel are better able to defend the LASD in litigation against it and win meritorious cases. It also includes investigative and oversight responsibilities for the disciplinary system.

Because of the shared aims described above, Special Counsel and staff have concentrated much of their time and resources in the last months monitoring the activities of the PSTD.

At the risk of over-simplification, the conclusion of Special Counsel and staff that we are guardedly optimistic about the LASD's implementation of the Kolts recommendations is grounded in substantial part in our perception that Chief Graham has put together a highly competent and dedicated staff and has the confidence and backing of Sheriff

Block, the Undersheriff, the Assistant Sheriffs and the other chiefs.

**We intend to monitor carefully the progress of the PSTD. Its successful functioning, taken in isolation, does not mean that unwarranted and gratuitous force will be eliminated. But the failure of this Division to meet its own expectations, in our view, would cripple efforts to meet the Board of Supervisor's mandate respecting excessive force.**

The Division merits adequate resources and support both internally and externally to do its job. It receives some internal criticism for moving too fast to institute new procedures and paperwork. Its dynamism has sent some people reeling. It is a refreshing change: To witness the growing pains of the LASD's assertedly moving too fast contrasts favorably with our somber conclusions last year that the LASD was moving too slowly in addressing excessive force.

We thus have these reasons to hope. But there are also formidable impediments to progress and reasons why we temper our hope with caution and must remain guarded in our assessments. Of particular concern is the confusion among some deputies about what all these changes mean and how to square the demands of the job with community expectations and still be effective, assertive officers; skepticism and cynicism about the nature and value of change at higher levels in the Department; and even a recalcitrance tinged with resistance at various levels.

There is a worry, for example, that the impact of increased scrutiny for use of force may be resulting in unproductive deputies who do the minimum necessary and are reluctant to do anything that might attract a supervisor's attention. At its worst, some deputies have a sullen attitude that unless they can be on the street "taking care of business" without being second-guessed, they will get back at all the police critics and the Department by performing their duties so narrowly that people will presumably cry out for hard-hitting cops.

More often, however, these attitudes probably reflect honest confusion over mixed signals from management about the interplay of force and good policing. Over the next several months, leadership will be necessary to dispel that confusion. At the same time, the message needs to go out that an unproductive, recalcitrant deputy is no more welcome in the Department than is the overbearing "heavy."



Because of cynicism at various levels and the testing by some deputies and their representatives of management's resolve and commitment to change, it is too early to conclude that the Kolts recommendations and the Department's own initiatives will be fully implemented to improve the quality of policing and lower the taxpayer's burden for the misconduct of officers who act inappropriately. But, as noted above, the signs are generally pointing in the right direction, and our assessment overall is that significant progress is being made.

There is no question that the reluctance within the LASD to confront the truth about misuse of force and police culture has begun to abate. We heard far less rationalizing, justifying, blame-shifting and denial that we did during the investigation leading to the Kolts Report. The LASD is more soberly confronting its problems than it was a year ago. The task now is to bolt the reforms to bedrock. **The message should get out that implementation of the Kolts recommendations and the Department's own initiatives regarding force and increased accountability is not a passing fancy or a short-term response to temporary media scrutiny or a ploy to placate critics that will be dropped when the political winds shift and public attention is diverted elsewhere.**

Last year, Judge Kolts noted that meaningful improvement of the Sheriff's Department depended most importantly on political will. Judge Kolts noted that substantial sums of money were necessary to improve the quality and effectiveness of law enforcement and to implement community-based policing.

This year, we reiterate Judge Kolts's observations with increased urgency. The Board's unanimous resolve to implement the Kolts recommendations will need to remain steadfast over the next several years. The citizens of Los Angeles County will have to approve revenue measures this coming November to prevent deterioration of the quality of law enforcement and a diminution of the number of officers on the force.

**The people of Los Angeles County must be willing in November, and when called upon thereafter, to commit the necessary resources and instruct their elected officials to invest money in the Sheriff's Department in order to reap the rewards of community-based policing, greater public and officer safety, and reduced financial exposure to County taxpayers from police misconduct.**

We cannot lose sight that the last years have been difficult ones for law enforcement, and above all for the deputy and other junior police officers. We recognize that many police officers are demoralized and feel themselves the target of attack. We acknowledge the grievance of deputies that the intense scrutiny of the police in the last few years may have led to a shift of public attention from the good police work of most deputies, day in and day out. Although we do not believe the fears are well-grounded, we acknowledge the apprehension of deputies that management will take the information being gathered about the deputies' use of force and citizen complaints and act on it in a wooden, unthinking, punitive way to make the lives of deputies even harder.

We empathize with the struggle of deputies to comprehend what is expected of them at a time when the definition of what constitutes a good, aggressive, hard-working police officer is undergoing some change. These views must not be dismissed and should be dealt with compassionately: Leaders should give reasons and information to calm apprehensions. Deputies must believe that they too are part of the implementation process. For the reforms to be effective at the street level, the deputies must understand and support the changes. Budget cuts have curtailed time for briefings where deputies could learn why the Department leadership has modified the LASD's procedures regarding force. It is ironic and sad, at a time when the leadership in the Department most needs to communicate and inculcate new values, as change moves through the Sheriff's Department, that tight budgets have forced a cut back of the forums for communication and the opportunities for dialogue.

But the need for better communication and existence of uncertainty on the part of deputies is not a reason to slow down implementation. Rather, it is a call for better

explanation. **The task now is to proceed expeditiously and with strong resolve toward full implementation, full steam ahead.** That necessarily means moving rapidly to expand community-based or service-oriented policing. We have no doubt that this kind of policing is consistent with heightened public safety and officer safety. It is not at odds with professional, aggressive, active policing in the best sense of those terms. Unwarranted use of force is. The best managers within the LASD believe this. They need to convince the deputies that this is so. It is not enough for the leadership to say, "Trust us." The leadership must demonstrate its firm belief in the correctness of the mission to reduce unwarranted force; that it is not just a momentary "politically correct" attitude or a reaction to outside pressure.

**The top ranks of the LASD should forthrightly and firmly communicate throughout the Department that the changes taking place have three paramount goals: (1) to immediately put an end to the use of gratuitous and unwarranted force; (2) to hold all supervisory personnel strictly accountable for managing their subordinates so that misconduct is dealt with quickly and persons at risk of using force inappropriately are identified and re-trained (or, if necessary, removed from the force) before disaster strikes; and (3) to hold supervisory personnel strictly accountable for managing their subordinates so that managers reward, praise, promote, back up, and steadfastly defend good, hard-working, productive and highly professional deputies, who get the "bad guys" off the street, who are professional in their dealings with the public, who are service-oriented, and who know when and how to use force judiciously and in a measured way.**

## **2 . S h o o t i n g s & O t h e r S e r i o u s F o r c e**

*While on the surface this may be a “justified” incident, I feel that it did not have to happen. . . . This state of mind virtually assures that deadly force will be the result when these types of individuals are faced with a stressful situation.*

— LASD evaluation of nonfatal officer-involved shooting

The Kolts Report advocated focused and dispassionate scrutiny of officer-involved shootings, whether or not a suspect was hit, and other serious force incidents. In particular, the Report recommended that the Department expand rollouts by the Internal Affairs Bureau (“IAB”). As will be described below, the LASD has met these recommendations by expanding the incidents which will result in mandatory rollouts and improving the quality of the reports and the analysis of force incidents.

Rollouts are immediate responses to shootings and force-related hospitalizations by a team of IAB investigators. The rollouts are intended to provide a timely, expert, and unbiased evaluation of the propriety and tactical soundness of the shooting or other use of force. Upon notification of an officer-involved shooting, for example, two specially-trained sergeants and a lieutenant from IAB respond immediately to the scene and conduct an investigation. Later, a report is issued to assess (1) officer conduct and whether a detailed administrative investigation should be opened; (2) tactics used, and whether counseling or retraining is necessary; and (3) whether current Department policy or training should be reevaluated.

The January 4, 1993 Joint Statement provides:

*In order to strengthen its commitment to accountability for use of force, the Department will respond with roll out teams to all shootings, whether or not the shooting resulted in a hit, and continue its automatic rollouts for all hospitalizations. The Department’s Force Team will additionally be given notice and the opportunity to rollout in any instances of a head strike or such other use of force as the Chief of the Professional Training*

*Standards and Training Division may order in which a suspect requires medical examination or treatment before being released for booking. Within the next six months, a system will be put into place to enable the Internal Affairs Bureau to perform a preliminary review within 72 hours of all force requiring emergency room treatment irrespective of whether the Force Team availed itself of the opportunity to roll out. If the Internal Affairs Bureau, or the captain at the station of facility involved, or the relevant division chief determines that there is any reason for any further investigation, that investigation will be performed by the Internal Affairs Bureau unless the Chief of the Professional Standards and Training Division directs otherwise. If at any later time there is a citizen's complaint, an administrative claim, or a lawsuit arising out of any injurious force incident, or if it is determined by the station captain or division chief or IAB that an investigation of the incident is warranted, such investigation will normally be performed by the Internal Affairs Bureau.*

On August 1, 1993, the LASD formally adopted major policy revisions to comply with these provisions. The Department had begun moving toward meeting these goals, however, as long as a year ago.

During 1993, there were a decreased number of officer-involved shootings and serious force incidents. Although LASD officers may be confronting increasingly hostile situations, they have had to use less deadly or significant force in the last year. The relevant figures, along with statistics regarding force rollouts and investigations, are set forth in Table 1. We are heartened by these numbers. Although it is hard to state definitively what this decrease means, we hope it reflects a trend toward a more judicious use of force. If this is the case, then we are further heartened by the decrease in the number of

deputies wounded or killed, although the wounding or death of even one deputy is too many. It may be evidence that a decrease in deadly force does not correspondingly decrease officer safety.

In 1992, there were 84 rollouts all together: fifty-two were for shootings and thirty-two were for force leading to hospital admissions. In the period January-July, 1993, there were thirty rollouts; seventeen for shooting, and thirteen for force leading to hospital admissions.

<b>1 Deputy Involved Shooting Incidents</b>			
	<b>1991</b>	<b>1992</b>	<b>1993*</b>
Number of Shooting Incidents**	56	47	19
Number of Deputies Wounded	10	6	4
Number of Deputies Killed	0	2	0
Number of Citizens / Suspects Wounded	40	31	6
Number of Citizens / Suspects Killed	23	18	18
**Incidents during which a deputy intentionally fired at and hit a citizen / suspect			
*Through September 30th, 1993			
<b>PSTD Rollouts- Suspect Shot or Killed or Admitted to Hospital</b>			
	<b>1992</b>	<b>Jan / July 1993</b>	
Number of Rollouts	<b>84</b>	<b>30</b>	
	32 force, 52 shooting	13 force, 17 shooting	
<b>Public Complaints / Administrative Investigations</b>			
	<b>1992</b>	<b>Jan / July 1993</b>	
Total Number of Personnel Complaints	1277	763	
Number of Force Complaints	145	102	
Total Number of Force Investigations Resulting From Complaints	58	55	

We examined all available reports for the period June 1, 1992 to July 19, 1993 prepared by the IAB Officer-Involved Shooting (OIS) Team and the IAB Force Team. The Force Team responds to force-related hospitalizations. The LASD is starting to judge shootings and serious force incidents with a more critical eye. Although some problems in tone and documentation of the reports persist (a subject we will revisit in subsequent audits), it was apparent that the LASD is studying with more care the tactics leading up to the use of deadly or serious force. Even where the force is justified in the Department's view, there is an increased focus on whether a more thoughtful strategy could have avoided the need for force. For example, in one OIS Team file, a station captain made a detailed analysis of the events leading up to a fatal shooting of an armed suspect. The captain noted that although the deputies acted in self-defense when they pulled the trigger, they had also committed no less than six tactical errors which unnecessarily placed their lives in jeopardy. The captain followed up the tactical evaluation with refresher training for the deputies.

Another file was critical of a sergeant's lack of leadership in a tactical response to a "man with a gun" call:

*[Sergeant A's] actions would indicate that he failed to take an active role in the planning of this operation. It would appear that he chose to acquiesce to the lesser experienced deputies in an obvious high risk, tactical situation. Had he asserted himself, he might have addressed such issues as: cross fire, back drop, vehicle and pedestrian traffic on [X] Avenue, evacuation, etc. Because the situation was stable and there existed no necessity for immediate action, time for planning and personnel positioning was on the side of the deputies.*

The captain followed up by providing training to sergeants on responding to high-risk incidents and plans to extend the same training to deputies as well.

These two examples fulfill Judge Kolts's recommendations. Unfortunately, other reports did not contain similarly sophisticated tactical and strategic analysis. The Department nonetheless is to be commended for taking steps to encourage thoughtful consideration of strategic, tactical, and training issues raised by officer-involved shootings and serious force incidents.

The first step in that regard was the creation of a team of investigators, called the PSTD Response Team, to perform training evaluations of all officer-involved shootings and certain other force incidents. The PSTD Response Team consists of three persons from IAB and one or more representatives from the Training Bureau, Traffic Services, the Civil Litigation Unit, or Custody Training, depending on the incident and the expertise required. For example, a PSTD Response Team rolling out to an officer-involved shooting at the conclusion of a high-speed car chase and a search by police dogs might consist of (1) the team of three IAB investigators responsible for putting the facts together; (2) a Traffic Services representative to evaluate the pursuit; (3) a Special Enforcement Bureau representative to evaluate the use of a canine; and (4) a Training Bureau representative to evaluate the shooting. These tactical perspectives are presented in a separate report within the PSTD Response Team's package.

The PSTD Response Team is responsible for investigating a much broader range of high-risk force incidents than the former IAB OIS and Force Teams, which were confined to hit-shootings and force resulting in hospital admissions. The PSTD Response Team must automatically roll out to all incidents in which (1) an officer intentionally shoots or shoots at another person; (2) a suspect or inmate is admitted to a hospital due to an LASD officer's use of force; or (3) a suspect or inmate dies following an altercation with LASD officer.

In addition, the PSTD Response Team may, in the discretion of the on-call IAB Lieutenant, investigate a broad range of "high-risk" incidents, including: (1) shots fired by



LASD officers (including accidental discharges and shots fired at animals); (2) shots fired at LASD officers; (3) skeletal fractures caused or allegedly caused by LASD officers; (4) force used by an LASD officer during or after vehicular or foot pursuits; (5) actual or alleged head injuries requiring hospital treatment; (6) hospitalization due to injuries caused or allegedly caused by an LASD officer; (7) dog bites requiring hospital treatment; (8) injury or high value property damage resulting from a vehicular pursuit; (9) traffic collisions involving LASD vehicles which result in the hospitalization of any party or high value property damage; and (10) inmate deaths from other than obvious natural causes (e.g., inmate suicides or overdoses).

If the IAB lieutenant exercises his discretion not to send a PSTD Response Team, he must nonetheless notify the watch commander at the involved station to preserve the scene and prepare a "force review package" with medical reports, sketches or photographs of the scene, audio or videotaped interviews of the suspect and witnesses, photographs or videotapes of the actual or alleged areas of injury, MDT transmissions, and any other relevant documentation. The force review packages are first reviewed by the concerned unit captain, who will decide whether further criminal or administrative investigation is warranted. Relevant portions of force review packages must be sent to IAB within seventy-two hours (three business days) of the incident.

If an incident results in emergency room treatment of a suspect or inmate, the captain must give IAB enough information within three business days of the incident so that IAB can decide whether a PSTD rollout is warranted. Later, the captain must forward a complete force review package for IAB. IAB then has three business days to consider the preliminary review and completed force packages for possible officer misconduct, potential civil liability, or deficiencies in documentation or investigation. If IAB determines that further investigation or documentation is needed either to defend the Department or consider discipline, IAB can seek authority to dispatch a PSTD Response Team to do its own review of the incident.

The LASD has also changed how officer-involved shootings and serious force incidents are initially reviewed. Formerly, the captain of the involved officers did the initial review. The captain's appraisal was then reviewed by the relevant area commander, division chief, and assistant sheriff. The new policy gives responsibility for initial review to a panel of three commanders — one from PSTD and two chosen on a rotating basis by the PSTD Chief. According to the Department, this reform was designed "to enhance the consistency of evaluations and decisions relating to shootings and force incidents."

The commanders' panel may seek additional facts or open a criminal or administrative investigation of possible misconduct. Once the commanders are satisfied that all the facts are in, they meet to discuss the shooting or force incident. The captain of the involved officer, who also receives a copy of the report, may attend the meeting and comment upon the incident. The commanders have the authority to invite PSTD Team members to the discussion.

After the commanders complete their evaluation, they must issue a report of their findings to the concerned captain. They may find that (1) the officer violated certain sections of the LASD Policy Manual and is subject to discipline; (2) the officer followed current policy and tactics; (3) the officer requires supplemental or refresher training; (4) the officer's conduct was exemplary and should be commended; or (5) the Department should modify its current training or practices.

If the captain agrees, then the captain must implement the commanders' findings. If, on the other hand, the captain disagrees, he must provide a written explanation. If the captain's division chief and assistant sheriff agree with the captain, then the captain's findings will override the commanders' panel. Otherwise, the decision of the commanders' panel stands, and the captain must implement it. The final outcome is then entered into the LASD's computerized Personal Performance Index.

Pursuant to the new policy, the first commanders' panel convened in September to discuss five incidents which occurred in August, 1993. The panel has yet to issue its

recommendations. The PSTD Response Team analyses which were presented to the panel were detailed and candid, and the Training Bureau reports were particularly impressive.

Some captains are displeased with the commanders' panel, believing it undermines their authority to manage their officers and that few captains will have the temerity to attempt to have the panel overruled. As one captain remarked, "I'd be a stone fool to challenge three commanders. I'm going to be on the Department for X years and I'm going to have to live with these commanders." Although the captains may correctly perceive that the panel limits their discretion, it is nonetheless an improvement. Formerly, when the reviews were entrusted to captains, as pointed out in the Kolts Report, the results were unsatisfactory because captains frequently lacked the time, expertise and, occasionally, the emotional distance to do a thorough and dispassionate evaluation. Regarding captains being intimidated, we rather expect that LASD captains cannot be intimidated by three commanders (or anyone else for that matter) and that they will freely voice their opinions in just about any setting.

Other concerns exist, however. The PSTD Response Team should consider a voluntary interview with the involved officers where feasible, particularly when there is no reason for a criminal investigation. We reviewed several reports where key information was missing which could have been provided had the officers been interviewed. For example, one report was incomplete because it could not be determined in one instance where a deputy was situated when he fired his weapon because the arrest report, and supplemental reports concerning the incident, omitted that crucial information. The absence of the officer's version deprives the commanders of valuable information and may cause undue weight to be given to the concerned unit captain's testimony as to what the officer may have informally told the captain about the incident. Conducting voluntary officer interviews by a member of the PSTD Response Team, perhaps by the Training Bureau representative, should ameliorate the potential for bias and provide a more solid

basis for evaluating adherence to policy and tactics.

It is also of concern that only the involved officer's captain has a standing invitation to discuss the incident before the commander's panel. If a captain chooses to advocate on behalf of his officer, the commanders may not be aware of countervailing arguments from other sources, such as IAB.

Overall, however, the LASD has made an important step toward better-informed and more dispassionate evaluations of officer-involved shootings and serious force incidents. Other steps remain. As the Deadly Force Committee on the LASD Core Values Task Force noted:

*[The LASD's] mission statement of bringing the Department from bare fear to a reverence for human life cannot be accomplished by policy alone. It is of paramount importance that all three areas of concern — Policy, Training, Review — be incorporated to bring about a systematic cultural change in the mind set of each Department member.*

In subsequent audits, we will measure the Department's resolve and progress toward that laudable goal.



### **3 . F o r c e T r a c k i n g**

The Kolts Report tested whether, and to what extent, the LASD took information about use of force into account in the supervision, evaluation, transfer, and promotion of sworn personnel and selection for sensitive positions such as field training officer or a member of a special task force. The Kolts Report also tested whether, and to what extent, management was using information with respect to use of force, citizens' complaints, lawsuits, claims, internal disciplinary proceedings and criminal investigations to manage risk. Judge Kolts found that the Department had not systematically tracked and assembled the information it needed to deal responsibly with gratuitous and unnecessary force. The Department had no adequate system for identifying officers with a propensity to use excessive force and devising a strategy for dealing with them before a serious problem occurred. In the last year, considerable progress has been made in remedying these serious deficiencies.

In the January 4, 1993 Joint Statement, the LASD committed to implement a sophisticated tracking system:

*In order to manage its affairs and personnel in the most effective way possible, the Sheriff's Department will in 1993 complete and fully implement an early warning and tracking system that records, integrates, and reports data regarding use of force, citizen's complaints, administrative investigations, criminal investigations or prosecutions, civil claims, civil lawsuits, and disciplinary history. It will be the policy of the Department that such information shall be given its proper weight and be considered as part of the mix, along with all other relevant data and input, in connection with personnel evaluations and management decisions.*

Since making that commitment, the LASD has substantially revised the way force is reported and documented. The LASD is on the verge of deploying a state-of-the-art tracking system to retain and report such information. For an institution the size of the LASD, rapid implementation has not been easy. Department executives and the entire staff

of the Professional Standards and Training Division and the Data Systems Bureau deserve credit for their firm resolve and leadership in moving the Department forward. Although rough edges remain to be worked out over the next year or so, the Department has acted wisely to push ahead and work out the details along the way. The LASD will need to give extra care, however, to how the information is used during this start-up period.

### *Revised Force Reporting*

On August 1, 1993, the LASD initiated new policies on reporting force and new procedures for treatment of suspects upon whom force has been applied. Deputies who use force “greater than that required for unresisted Department-approved searching or handcuffing” or which “results in an injury or complaint of pain” must make an oral report to their immediate supervisor (usually a sergeant).

The LASD’s revised definition of “reportable force” exempts force of a minor nature, such as placing a hand on a suspect’s shoulder, or gripping a suspect’s arm (where the suspect neither resists nor complains) from the oral and written reporting requirements. Examples of force which would remain “reportable” under the new policy are:

- search or handcuffing efforts met with resistance by the suspect;
- control holds for other than routine searching or handcuffing;
- application of the “RIPP” hobble (i.e., hog-tie);
- use of specialized weapons (e.g., tasers, rubber-bullet rifles);
- use of any impact weapon to strike or control;
- any force greater than a control hold or come-along (e.g. slaps, punches, or kicks of any magnitude);
- any force resulting in injury or complaint of pain; or
- any force involving actual or alleged misconduct.

The new procedures require a deputy immediately to transport suspects or inmates to a medical facility when: (1) the deputy strikes the suspect or inmate in the head (regardless of whether there appears to have been any injury); (2) the deputy uses a carotid or other neck or throat restraint; (3) the deputy uses a special weapon such as a taser or pepper spray on a suspect or inmate; (4) the suspect or inmate has sustained an injury appearing to require medical treatment; (5) the suspect or inmate alleges injury and requests medical treatment (even if no injury is apparent); or (6) the suspect or inmate alleges that an officer used substantial force against him. Deputies must resolve all doubts in favor of taking the suspect or inmate to a medical facility. If the suspect is uncooperative and refuses to accept medical treatment, deputies must document that refusal according to clear guidelines.

### *Documenting Uses Of Force*

The LASD's new policy also expands and clarifies how reportable force is documented. The policy requires greater documentation in cases of injurious or "significant" force.

#### **Low-Level Force**

The Department considers force to be "low-level" if it involves some struggling — such as the use of control holds or the use of a hog-tie — without actual or alleged injury or complaint of pain. The watch commander is responsible for documenting such incidents by: (1) interviewing the suspect or inmate; (2) completing a "Supervisor's Report, Use Of Force"; and (3) attaching brief narrative summarizing witness statements and the circumstances giving rise to the incident. This information is then routed to the unit captain for review and entry into a computerized tracking system (discussed in detail below).

We believe hog-ties should be considered significant force. Given recent incidents involving the LASD and other local police agencies where hog-tied suspects died, particularly as they were being transported, hog ties should be deemed significant force because of the danger of positional asphyxia.



## **Significant Force**

The Department considers force to be “significant” if it involves: (1) any injury resulting from the use of force; (2) suspect complaint of pain or injury resulting from the use of force; (3) an indication or allegation of misconduct in the use of force; or (4) the use of force greater than an LASD-approved control hold or “come-along.” Such force would include for example, a punch to a suspect’s chest, or a prolonged struggle on the ground in order to handcuff a suspect, irrespective of whether there was any complaint of injury or misconduct.

In cases where significant force is used or alleged, the deputy must notify the watch commander, who will determine whether to notify IAB about the incident, as discussed in the prior chapter.

Significant force incidents which are not investigated by the PSTD Response Team will be investigated by the unit watch commander, who must compile a “force review package” as described in the prior chapter and recommend to the unit captain if further action or investigation is warranted.

## **Processing Of Force Reports and Documentation**

The captain must review all force packages and supervisor’s use of force reports to determine whether further action, such as initiating a criminal or administrative investigation of the incident, is warranted. The information is then entered into the computerized force tracking system, called the Personnel Performance Index, or PPI. In addition, the force review package and any other materials documenting the incident will be kept at the station for at least two years as a precaution in case of later litigation.

The new force policies go a long way toward ensuring that force incidents are documented at the earliest possible stage to alert Department managers of possible misconduct or exposure to litigation. We were particularly pleased with the new

requirement of recording interviews of all persons in the vicinity of a significant force incident, *even if those persons claim not to have witnessed any force*. Such interviews will give the Department a fuller picture of force incidents. Not coincidentally, they also prepare the Department to respond to lawsuits in which new “witnesses” emerge or existing witnesses change their version of events.

There are widespread complaints that the new policy requires too much paperwork and hence is unpopular. While we understand with the additional burdens on watch commanders, we have confidence that the new policies are workable because Norwalk station and a number of others have been using similar procedures for a long time. Additionally, the watch commander who acts preemptively and engages in preventative training and counseling of deputies should find himself or herself with fewer complaints to investigate and thus less paperwork. Regarding the grumbling in general about the paperwork, one station captain observed, “The Department is undergoing a healthy process of uneasiness. Give us a year and we’ll be squared away.”

We expect that is the case. In future audits we will report how the new reporting policy is working.

## *The PPI System*

*“I’ve heard about this system for two and a half years now. I’m ready to push the buttons, just show me what to do.”* -LASD Captain

*“We’ve got the tools now. It’s up to us to make sure that we don’t kill the fly with the sledgehammer. We’ve got to be very, very careful not to maim someone’s life or career in our enthusiasm to use the new system.”* -LASD Captain

### **Scenario 1:**

*On March 20, 1995, Citizen A files a \$3 million lawsuit against the county alleging that on the evening of September 5, 1993, Deputy B struck him twice in the head with a flashlight. Citizen A further claims that as a result of this beating, he has blurred vision and some hearing loss. Upon learning of this lawsuit a week later, Deputy B's unit captain accesses her desktop computer terminal for the LASD's Personnel Performance Index (PPI). By typing in a few keys, she learns that on the evening in question, Citizen A had complained to the station watch commander that Deputy B had shoved him against a wall and had handcuffed him too tightly. By clicking a computer mouse button, she views another screen containing the watch commander's documentation of the complaint. The screen indicates that two civilian witnesses and two other deputies had witnessed the incident and observed no excessive force. The screen also indicates that all interviews have been tape-recorded. Clicking once again, the captain views laser-imaged copies of photographs taken shortly after Citizen A's arrest. The photographs reveal no visible injuries. Clicking one final time, the captain learns that citizen A has filed three complaints with the LASD over the last two years, all of which were deemed unfounded. The Captain calls the Civil Litigation Unit, which monitors all lawsuits against the LASD. The head of the unit confers with the Department's lawyers, who then speak with Citizen A's lawyers. Citizen A drops the lawsuit. Litigation which would have cost the county \$100,000 in legal fees prior to PPI winds up costing only a negligible amount. The Captain updates the PPI to reflect the outcome and then calls Deputy B and tells her she has nothing to worry about.*

### **Scenario 2:**

*In order to get information about how her officers are interacting with the public, Captain A programs her PPI terminal to let her know when any of her officers garners more than three citizen complaints within a given year. She uses this information merely as an*

*indicator that she must seek further information in order to manage risk. She does not conclude that a deputy has done anything wrong based merely on the bare fact of three complaints. Several months later, Captain A receives an electronic mail message indicating that two deputies have crossed that threshold. She meets separately with the Deputies, X and Y, to talk things over. Deputy X explains that three of her four complaints were filed by a citizen whom Deputy X has cited three times this year for public intoxication. Captain A confirms this information through the PPI. She then converses with her watch commander who observed that on each occasion Deputy X acted with patience and restraint. Captain A praises Deputy X for her good work, and discusses with Deputy X the best way to address the problem posed by the drunken citizen. She makes notations in the PPI to reflect the results of her investigation and her meeting with Deputy X. In her meeting with Deputy Y, Captain A learns that Deputy Y is going through a rough divorce and custody battle for her only child. Deputy Y denies any wrongdoing, but nonetheless volunteers for desk duty for the next few months and a transfer from the stressful evening shift she has been working for the last year. Captain A agrees.*

These scenarios should soon be possible. A year ago, they were not. The LASD is moving swiftly to implement a computerized tracking system. The Personnel Performance Index or PPI is that new system. Preliminary design of the PPI began in July, 1992. By November, the LASD had completed a preliminary design. Two months later, the LASD contracted with TRW to design the computer software for the PPI.

### **Design Of the PPI**

The LASD claims that the PPI is by far the most sophisticated computer tracking system of its kind. We agree. The LASD hopes to market the system to other law enforcement agencies and, accordingly, is protecting its intellectual property rights to the PPI's design and software.

The PPI records and tracks information pertaining to six separate areas: (1) uses of force; (2) officer-involved hit and non-hit shootings; (3) citizen complaints or commendations; (4) formal administrative investigations of possible officer misconduct; (5) civil claims against the LASD filed with the County; and (6) lawsuits filed against the LASD. Each of these applications is linked, enabling managers to determine, for example, whether a use of force now the subject of litigation had ever resulted in any disciplinary action against the involved officers. The PPI also contains a powerful application permitting a manager to program the PPI to his or her own requirements for an early warning of potential problems. The PPI also contains a sophisticated program sharply delimiting the access to files on the basis of rank and case sensitivity.

The PPI has the following features, among others:

- Uses of force are documented according to the weapon used, the injury caused, and the location of the injury. This ensures that each use of force is given its proper weight by managers and executives.
- Managers are able, for the first time, to conduct sophisticated factual queries for purposes of training and managing risk. For example, the Training Bureau can, for the first time, test the effectiveness of a Department-approved weapon (such as the baton) by generating statistics on how frequently the weapon is used and in what circumstances, as well as the sorts of injuries (including those to LASD officers) associated with its use.
- Entries regarding force incidents, shootings, and citizen complaints will document which supervisors were on duty when the alleged incident occurred.
- Each application allows for the electronic “attachment” of notes and incident-related documents, including computer-imaged photographs, sketches, and handwritten materials.
- The PPI provides easy access to pertinent information regarding lawsuits, such as:  
(1) the parties to the lawsuit and their respective counsel; (2) the causes of action and damages sought; (3) a synopsis of the allegations giving rise to the lawsuit;

(4) important dates in the litigation; and (5) the ultimate fate of the lawsuit, such as trial verdict or settlement amount.

- The PPI contains a powerful application which enables a limited number of managers to set electronic “triggers” for automatic reports on uses of force, citizen complaints, lawsuits, and the like. The triggers prompt the captain to intervene, in a nonpunitive fashion, and assess whether one or more of his or her officers is at risk.

### **Implementation of the PPI**

The PPI should be fully operational in the late fall of 1993. While access is limited, operation of the PPI is highly decentralized, with the captain of each unit responsible for ensuring information is accurately recorded as it comes in. For example, if a citizen comes to a station to register a complaint, the on-duty watch commander will log that information directly into a PPI terminal at the concerned unit. Access to the PPI terminal, both for purposes of input and review, is highly restricted.

### **Initial Assessment Of The PPI**

#### *System Design*

Although the PPI is not yet operational, it is clear that the LASD has made remarkable strides toward meeting its commitment set forth in January 4 Joint Statement by Judge Kolts and Sheriff Block. Nonetheless, the LASD has a great deal left to do in the near future to ensure that the PPI is used effectively and fairly.

#### **1. Quality Control**

One issue that remains to be worked out is how the Department will ensure that each unit provides the PPI with full and accurate information. Captains, who have yet to be trained in the PPI system, cannot reasonably be expected to ascertain whether data input at their unit is consistent with the data entered at other units. We look forward to progress

on designing a procedure for regular and “spot” audits of data input by the various stations. Without a centralized auditing mechanism, the LASD risks introducing substantial disparities in the quality and quantity of information, which can work an injustice to individual officers and provide managers and executives with a distorted picture of the Department.

## **2. Age Of Data**

A second concern is whether the PPI will contain the data already available from various bureaus within the LASD. Currently, the LASD intends to launch the PPI by downloading data contained in a previous less sophisticated tracking system. Thereafter, the Department will simply add new data as it comes in. While this is a good start, it does not fully equip LASD managers to learn lessons from the past. As Judge Kolts reported last year, the LASD already has a wealth of pertinent data of varying quality and detail dating back to 1986 and even further. We believe LASD managers have the requisite sophistication to review this older data in its proper light and should have it at their fingertips when evaluating their officers. We also believe the LASD will better defend itself in excessive force litigation if readily available information about past lawsuits is entered into the PPI.

Some progress has been made in this direction. For example, we learned that IAB determined on its own that the 1990 cutoff date on administrative investigations in its previous tracking system did not provide managers and executives with sufficient data on its personnel. IAB personnel then literally pulled pre-1990 files out of plastic storage bags and began the slow process of adding information from the files into a stand-alone database which will soon be transferred into the PPI. When last we looked, IAB staff was working its way through 1986 files. We applaud such initiative and urge the Department to provide support for other units, such as Civil Litigation, to log other available information into the PPI. One important area that can be addressed with relatively

little effort is that of officer-involved shootings. As it stands today, the PPI will not contain information regarding hit-shootings which occurred before the summer of 1991, when IAB first began reviewing such incidents for training and policy review. We are at a loss to explain why pre-1991 shootings ought be excluded; indeed, in June, 1992, Sheriff Block made clear that, for purposes of his own review, the appropriate time frame for monitoring officer-involved shootings is "forever." We agree with the Sheriff. The information is readily available from the Homicide Bureau and should be added to the PPI.

### **3. Criminal Investigations Not Fully Tracked**

A third concern is that the PPI is currently unable to provide complete information pertaining to criminal investigations of LASD officers. The PPI currently lacks a separate database for criminal investigations of its own officers, which are generally conducted by the LASD's Internal Criminal Investigations Bureau (ICIB). The exception to this rule occurs where the conduct of an LASD officer occurs outside of Los Angeles County. In such cases, the LASD defers to the investigation conducted by the law enforcement agency with jurisdiction over the matter. As a result, only those criminal investigations which result in the opening of an IAB "monitor" file will appear on the PPI.

Although this design will capture many, and perhaps most, criminal investigations, it is imperfect in two respects. First, officials within PSTD and IAB conceded that it is by no means certain that all criminal investigations will result in IAB monitoring, and thus become part of the PPI. A second problem is that an ICIB investigation may proceed for weeks or months before an IAB monitor is opened and the information is introduced into the PPI. One knowledgeable source estimated that 8-9% of the criminal cases eventually monitored by IAB became known to IAB after the criminal investigation is concluded. Thus, the PPI does not provide executives with a contemporaneous overview of criminal investigations. As one of the principal designers of the PPI observed, "The best way — really, the only way — to get an accurate count [of criminal investigations] is to go to



ICIB.” In light of the fact that ICIB does not regularly keep such records, we believe this situation should be remedied by eventually including the information in the PPI.

#### **4. Information Regarding Citizen Complaints**

A fourth concern is how the Department will treat citizen complaints and commendations in the PPI. We perceived widespread anxiety among deputies that they would be perceived as “heavies” or “problems” simply by accumulating an unspecified number of citizen complaints, irrespective of their merit. We perceived concern by managers that deputies had no incentive to engage in conflict resolution with civilian complainants because, even if a complaint were resolved to the citizen’s satisfaction, the existence of the complaint would still be recorded on the PPI. In September, the Department responded to these concerns by forming a committee of lieutenants to evaluate how to treat citizen’s complaints in the PPI.

We strongly disagree with those who argue that “frivolous” complaints should not be entered into the PPI. The solution lies in providing more, rather than less information about citizen complaints. It would be unjust for a deputy’s reputation to be sullied by a frivolous complaint, or one which was eventually resolved to the citizen’s satisfaction. But omitting such complaints from the PPI poses even greater dangers. A station captain explained one such danger thus:

*If we let captains erase complaints [from the PPI] you introduce unfairness into the system. Different captains will apply their own personal standards, and that’s unfair to the deputies. I mean, what do you do when a captain says, “That’s a blue horse,” when everybody else knows it’s pink?*

Selective tracking also threatens to undermine one of the functions behind the PPI — to protect the Department from spurious claims of misconduct. One sergeant viewed this function of the PPI as central to dealing with difficult or untrustworthy citizens:

“[I]f a citizen comes into a station and complains that no action has been taken on his six month old complaint of excessive force, we can respond, ‘No sir, your complaint six months ago was that the officer *was wearing sunglasses.*’”

If a captain determines that a citizen complaint is patently frivolous, that determination should be duly recorded on the PPI. If a disgruntled citizen mediates the dispute with a deputy and comes away satisfied or withdraws his complaint, that information should also be noted on the PPI. It is only when all the facts are recorded that managers can deal effectively with their officers and be held accountable for doing so.

### *Concerns About Management's Use Of PPI Information*

Although the LASD has made considerable progress on the technical side, it has not yet formulated policy on how managers and executives are to use the PPI. The result has been confusion and fear. We found widespread ignorance among deputies about the basic concepts behind the PPI as well as fear that the PPI will invariably be used punitively whenever a deputy crosses an unspecified threshold of force reports, citizen complaints, or lawsuits. Supervisors and managers also had little understanding of what the Department expected them to do with the PPI.

The PPI is a tool for inquiry, investigation, and, if necessary, for intervention; not for punishment per se, although patterns of abusive conduct should influence selection for coveted assignments, promotion, personnel evaluation, and augmentation of discipline in appropriate circumstances. Some captains already use the computer information now available to them in this manner. Other captains asserted that they were “embarrassed” to take that first step because the early computer data was inaccurate in some respects. On the other hand, Century Station Captain Carole Freeman reported that such inaccuracies were helpful in a way, for deputies at that station could correct the errors and thus recognize that their captain simply desired an accurate picture of their performance. Unit captains should follow this example and use the PPI information as a springboard for

regular dialogue with their deputies.

Such laudable initiative, however, may not be matched by every captain.

The LASD must provide its managers with concrete guidelines and expectations for using the PPI system. As noted above, the early warning component of the PPI is not self-executing. Captains must decide what thresholds are appropriate for their unit.

**The next great challenge for the Department is to help its managers and executives to learn to apply judgment and discretion when an officer's name flashes across the screen of a captain's computer terminal. The time for meeting that challenge is now, before the PPI is misapplied and the worst fears of some deputies are realized.**

## 4. Civil Litigation

### *Background Data*

In Fiscal Year 1992-93 (July 1, 1992 - June 30, 1993), 104 lawsuits were filed against the County alleging use of excessive force by members of the Sheriff's Department (as in the Kolts Report, the civil litigation figures in this report exclude lawsuits related to personnel issues or to alleged property damage, false arrest or civil rights violations, unless use of excessive force also is alleged). During this period the County approved settlement of seventy-four force-related claims for a total payout of \$2,374,577 and suffered losses in trials for force-related claims with judgments awarded aggregating \$655,437. Forty-seven cases were settled for \$20,000 or less each, with aggregate payouts of \$457,077; twenty-seven cases were settled for over \$20,000 each, with an aggregate payout of \$1,917,500. One plaintiff verdict was for less than \$20,000 (\$4206.00); six plaintiff verdicts were for over \$20,000, with aggregate awards of \$651,231. A portion of these costs (as well as a portion of case management and litigation costs) was reimbursed to the County out of the Contract Cities Liability Fund based in part on the location of the incident underlying the claim.

The statistics quoted in this chapter are based on figures provided by the County Counsel's office except as noted. As discussed below, certain of the numbers differ from those obtained from Sheriff's Department records for a variety of reasons. In June 1992, before the beginning of Fiscal Year 1992-93, the County approved a force case settlement in the amount of \$1,750,000. This settlement is not reported in the original Kolts Report (which covered data through May 1992). The data in this report also does not include the June 1993 \$4,405,000 verdict in Hall v. County of Los Angeles (now on appeal) since the plaintiff in that case did not allege excessive force.

According to Sheriff's Department figures, during Fiscal Year 1992-93, the County succeeded in obtaining dismissals of forty-nine force-related lawsuits (as well as another forty lawsuits in which it is not clear whether or not force was alleged). Some of these

dismissals were as a result of settlements and therefore are also included in the settled cases listed above. The County obtained nineteen verdicts during the fiscal year in force-related cases, including two cases in which excessive force claims were rejected but the plaintiffs recovered on other causes of action. At the end of the fiscal year, the County's caseload of force cases stood at 468.

As in the Kolts Report, we examined the files of certain of the new cases and summaries of all the new cases. Since claims and lawsuits are filed months or, in some cases, years after the incident, none of the matters we examined was based on incidents occurring after the Joint Statement of January 4, 1993 (and, of course, none of the incidents reviewed during this period occurred after implementation was under way). Therefore, we expected that the types of the incidents and the force alleged in these cases would parallel those described in the Kolts Report, and indeed that was true.

Among thirty cases in which approved settlements or awarded verdicts exceeded \$20,000, one resulted from a fatal shooting, one from a non-fatal shooting, three from dog bites, and twenty-eight from other uses of force. New claims and lawsuits filed during the review period included cases related to loud-party calls, family or bystander restraint, and traffic stops or other minor violations that escalated to a point at which the involved deputies — rightly or wrongly — believed that force was required to contain the situation. Each of these patterns was addressed in the Kolts Report and, as discussed below, the Department is incorporating review of these patterns to revise its training programs.

### *Implementation of the Kolts Recommendations*

The Department agreed to review civil litigation cases to ensure that “lessons learned” from these cases — whether ultimately won, lost or settled by the County — are applied to revisions of policy and training methodology. During the period covered

by this report, the Department instituted a policy of requiring review of each closed case by a sergeant in the Civil Litigation Unit, who prepares a synopsis of the case and any policy or training implications. Although not required by current policy, Training Bureau personnel as well as Civil Litigation Unit personnel have been reviewing each closed file. The Civil Litigation Unit forwards the synopsis and, if appropriate, copies of the underlying files to the Professional Standards and Training Division or the Training Bureau. As discussed elsewhere, the use of force policy and the force training methodology already have been modified to reflect some of the "lessons learned" from civil litigation cases. Changes include training in non-force alternatives for incident patterns which have resulted in repeated litigation, as well as strengthening departmental directives about when to use force, non-force alternatives, and how to collect and preserve evidence when force is used.

Another agreed-upon recommendation now being implemented is inclusion of claims and litigation data in the Personnel Profile Index, or PPI. As discussed in the preceding chapter, the PPI is to be used for a variety of purposes, including risk management. Entry of claims and civil litigation information, including the outcome of all such claims or litigation, is necessary to insure that the Department's personnel, training, policy, and incident reviews are informed by the most complete and accurate data possible.

## *Risk Management Issues*

The premise behind many of the Kolts recommendations implemented by the Sheriff is that the Department and the public will benefit from assertive risk management. Improved incident reporting, litigation review, policy revision, retraining, and discipline form an integrated approach designed to prevent recurrent incidents of excessive force. We commend the Department's attitude toward applying "lessons learned" and note that this effort preceded the recent risk-management study of the Economy and Efficiency Commission adopted by the Board of Supervisors on September 21, 1993.

We believe, however, that two structural issues deserve further examination in order to fully implement the “lessons learned” strategy. First, accurate and prompt information concerning civil litigation and claims must be accessible and shared. We are troubled by inconsistencies in data provided by the Department and County Counsel and by our difficulty in obtaining the case management data cited at the beginning of this section. These inconsistencies (which do not significantly affect our statistical analysis) are explained partly by lag time in reports from County Counsel to the Department, partly by different definitions of what constitutes a force case, and partly by differences in how data are maintained. Similarly, the delays are partially explained by the variety of locations and manner in which data is stored. Even these explanations are troubling, however, because County Counsel and the Department share the responsibility of managing risk by minimizing recurrences of inappropriate force. Without accurate, accessible, and agreed-upon data, this goal (particularly as to departmental policy issues) is more difficult to achieve.

Another advantage of better-integrated and accessible statistical data is the ability to apply the information to timely management of individual cases. Currently, County Counsel and the Department discuss case strategy at externally imposed milestones (e.g., before settlement conferences or trials or when a plaintiff has made a settlement offer). **We applaud the involvement of the Department in strategy and settlement decisions, but believe that earlier and more regular discussions between County Counsel and the Department will be beneficial and cost-effective. Regular and early individual case review and management are the parallel to regular and early Department-wide intervention to modify policy or training and similarly should prove cost effective.**

The Department has requested County Counsel to keep the LASD informed of the litigation costs and attorney’s fees incurred in each case on a current, on-going basis. County Counsel has agreed to provide this information in cases handled by County

Counsel attorneys as well as those handled by outside contract attorneys. The information will be added to the Status Report Form provided to the LASD's Civil Litigation Unit.

It would be useful if this information could be added to the relevant data base. In addition, County Counsel has offered to provide the Department with the budgets outside contract counsel is required to provide to County Counsel.

As discussed further below, in-house County Counsel fees, as well as contract attorney fees and other vendor costs, are now borne by the Department. If the LASD had the authority in whole or in part to supervise and manage these expenditures, this would be a step forward because it would give the Department a further incentive to for active involvement in how cases are litigated or settled. It would also provide yet another incentive to avoid litigation by reducing excessive force.

Providing timely and accurate information in that process will cause it to be more effective. For instance, our review disclosed some cases in which litigation cost for Fiscal Year 1992-93 alone exceeded the anticipated total liability exposure. Policy implications of cases, complex issues, or recalcitrant parties may cause costs to exceed exposure, and initial exposure estimates may prove faulty. Nonetheless, there are numerous cases for which costs approach or exceed anticipated exposure. These cases point to the need for regularly-scheduled review of each case (or at least each case in which authorized fees and costs exceed a stated minimum).

More intensive case management by the LASD is justified on a cost analysis alone. For Fiscal Year 1992-93, the County Counsel reports expending \$8,391,031 for defense fees and costs in force-related actions. County Counsel expended \$3,030,014 in force-related approved settlements and adverse verdicts. In isolation, it is not surprising that the cost of managing a large docket of cases in any given year might outweigh the cost of judgments and settlements. But the LASD should make a careful analysis to determine if the legal work is appropriate and cost-effective.

The second risk management issue we believe deserves additional review involves



County-wide policies concerning litigation and claims management cost allocation.

**The County fails to provide adequate incentives and disincentives to the Sheriff's Department to curtail excessive force through management of litigation exposure and expense.** Currently, the County budget process allocates funds to the Sheriff's Department (and other departments) for the cost of claims management, litigation, and loss payouts. County Counsel states that this funding is based in part on the historical cost and loss experience of the Department and in part on the share of County Counsel resources attributable to service for Department claims and litigation. Funding for both force-related and non-force claims and payment, of course, are included in this funding. Costs and fees of non-County claims managers (for auto liability and some general liability matters) and costs and fees of both outside contract attorneys and in-house County Counsel working on Sheriff's Department matters likewise are part of this funding.

When an LASD claim expense requiring issuance of a County check is incurred — for outside claims management, contract attorney litigation costs and fees, or for loss payout — the County's Judgment and Damages budget, which is within the control of County Counsel, is the initial source of funding. However, through inter-departmental accounting transfers, the LASD's budget is debited and the county-wide Judgment and Damages budget is credited to "back-fill" the fund providing the initial payout, leaving the Sheriff's Department budget with the net reduction, even though the LASD, unlike the typical client, has no power to oversee or disapprove legal fees and expenditures. Similarly, the Sheriff's Department is charged for fees of in-house County Counsel on LASD-related matters (for which no check to third parties is written). Again, even though the LASD must foot the bill, it currently has no power to oversee the expenditures.

For Fiscal Year 1992-93, if the Department's allocation for claims management, litigation, and loss payment had been exhausted during the fiscal year, the Department

would in theory have been required to repay the excess out of other departmental resources to the Judgment and Damages budget. This was intended to be a disincentive for "over expenditure." According to County Counsel, the Department's "excess-claims" exposure is capped at 150% of its initial claims allocation; claims aggregating more than 150% of the initial allocation would be paid out of a County-wide "reserve" in the Judgment and Damages budget or, if necessary, by a County-wide budget adjustment. Because there was no "over expenditure" in the Sheriff's Department for Fiscal 1992-93, there was no occasion to test what might have happened if there had been.

If, however, the Department's allocation for claims management, litigation, or loss payment is not expended during the year, the "savings" is not retained by the Department, according to the LASD. Instead, the Sheriff's Department states that at year-end the amount of this "under-expenditure" becomes available cash for reallocation to any department or program in the following year's budget process. The budget process thus does not provide an incentive for under-expending. Others in the County quibble a bit with the LASD by pointing to some hypothetical ways in which some hypothetical part of an under-expenditure might, under some hypothetical circumstances, be returned to the Sheriff's Department. But even if in fact the LASD in some years past may not have lost every last dollar of an under-expenditure, we are not convinced that this ad hoc benefit is sufficiently dependable to provide a real incentive for the LASD.

During Fiscal Year 1992-1993, the Sheriff's Department under-expended its allocation by a significant amount. **The County should consider providing an incentive to the LASD to under-expend by allowing it to retain at least a significant portion of the financial benefit. For the Sheriff's Department, this would encourage further implementation of the Kolts recommendations, exploration of earlier claims intervention and alternative dispute resolution, and ultimately help fund the improved practices which underlie the risk management-oriented approach we have recommended.**



## **5 . A c c o u n t a b i l i t y**

The Kolts Report examined in detail whether top management of the LASD appropriately delegates power and authority to middle and lower managers, particularly captains, lieutenants, and sergeants. Judge Kolts tested whether top management adequately tracks the performance of lower management and reacts swiftly to substandard performance. Judge Kolts and his staff found that the delegation of authority downward was being made without adequate training and definition of duties as managers in the LASD. The Report noted complaints by captains that there was inadequate direct communication between captains and top management. We recommended that top management in the Department hold substantive meetings frequently with all captains, and we understand that Sheriff Block has begun to do so.

The Kolts Report also noted a lack of clear performance standards. There also did not seem to be a specific assessment in personnel reviews of how well a captain was managing risk at his or her station.

In the last year, there has been some progress in these areas. One very promising new idea that we hope bears fruit is the concept of a Captains' School. The Sheriff's Accountability Task Force Subcommittee on Captains, headed by Commander Robert Pash, is formulating a proposal and a curriculum outline for such a course. The job of captain, already difficult, has become harder. It is inevitable in the LASD that change seems always to be imposed from above. The first tidal wave of substantial change is currently hitting hard at the captain level. As one captain put it, "the changes are being imposed like coal down a coal chute." The captains had substantial concern, for example, that they had not yet been trained in how to evaluate data on individual deputies that will soon be available.

The Department is giving captains and other executives the tools and information with which to manage risk and reduce force and liability. The Department's next challenge is to teach and train executives and managers how to accomplish those tasks, manipulate the information at their disposal to these ends, and to make better and more discriminating judgments with respect to individuals. Unless captains and others are taught how to read a

deputy's records with skill and judgment, the Department runs the risk that its substantial investment in its new tracking systems could be undermined.

As discussed in our chapter on the PPI, deputies fear that any force they report will be a potential strike against them that will haunt the rest of their career. Decisions which impact on a deputy's livelihood and career obviously call for dispassionate and reasoned judgments.

**The Department is facing the challenge of how to hold captains accountable for how well they perform that task. The Department is taking the first steps to make sure that captains understand and accept the philosophy and purpose of the new system. The Department stresses that captains should use the information as pointers to potential issues and not use the system blindly or mechanically. The LASD recognizes that each deputy will have a different mix of assignments. Some assignments at some stations or facilities will lead to more instances where force is warranted and justified than at other assignments. In some areas, citizens may complain loudly and often about trivialities; in other areas, the rare citizen's complaint may mean something seriously is amiss. An absence of any reportable force whatsoever by a deputy in a fast station on a busy shift may be an indicator that the deputy lacks initiative or is not reporting accurately. The Department recognizes that the records will need to be read with care and interpreted wisely.**

Just as the LASD faces the challenge of educating captains, so too will it need to train lieutenants and sergeants in station-level investigation. The integrity and thoroughness of the investigative process at this level are important for purposes of risk management. The way the sergeants and lieutenants enforce new standards on use of force and reporting is critical. Chief Baker, echoed by POPA, the sergeants' and lieutenants' union, pointed out the need to assure that sergeants and lieutenants have been adequately trained in these tasks.

The sergeant is the first manager to deal with the consequences of a deputy's use of force and is best positioned to discourage unnecessary or gratuitous force. The sergeant is also the first to reward police professionalism for the skillful use of non-force options and the measured deployment of force when necessary. Continuing education and training of sergeants and lieutenants is a necessary adjunct to a successful risk management policy. Equally important is the captain's commitment to active leadership and instruction of sergeants and lieutenants.

Responsible executives in the LASD are intently focused on issues of training and accountability and building consensus around values and ideals at all levels of management consistent with community-based policing notions. One Chief suggested that it would be a useful exercise to develop and articulate core values for management as a way to come to a consensus about management attitudes and philosophy. The same Chief stressed the need for forward planning at the senior management level.

Some deputies suggested much the same thing. One deputy noted that senior people in the Department learned a style of policing in "the bad old days" when attitudes toward force and risk management was different. The deputy speculated how difficult it must be for executives in the LASD to espouse and enforce different standards than the ones that led to their success and promotion. The deputy was uncertain whether a true consensus at the top was being forged around community-based policing values or just being mouthed in response to the Kolts Report and media coverage of police misconduct. The deputy adopted a "wait and see" attitude, reserving judgment whether the Kolts recommendations and the Department's initiatives regarding force will lead to permanent change or be simply a passing fancy. Leaders within the Department need to reinforce the message that the changes are for real and there will not be a return to the practices of yesteryear.

There was and remains a widespread perception among deputies and sergeants that they are held to harsher standards than lieutenants and other senior officers. Additionally, deputies and their union argue vigorously that deputies should not be made the scapegoats

for all force-related abuses and that one must also look at failures of training and supervision by managers.

As we noted in the Kolts Report, it is wrong to shift blame away from the individual deputy who commits an inexcusable act. As regards excessive force, it is almost invariably the deputy who employs force and must make the judgment call whether it is necessary. As we said in our initial report, we recognize the difficulty of split-second decisions that must be made by deputies in life-threatening circumstances. Nonetheless, the power of life and death inherent in carrying a gun, and the power to cause injury and pain with batons and flashlights, come with a non-delegable obligation to adhere to a high standard of professional and ethical conduct.

Deputies also complain that they are held to a higher standard of accountability and subject to harsher punishment than the criminals and “low lifes” out on the street. Putting aside the obvious hyperbole, there is truth in the observation that a high standard of conduct is expected of police officers. But that is exactly how it should be. As we noted in the Kolts Report, however, the inquiry should not end with assessing the misconduct of the deputy.

Any investigation of wrongdoing by a deputy sheriff should include examination of possible concomitant failures of supervision and training by managers.

Risk management and the provision of proper training and supervision to those lower in rank is a non-delegable professional obligation of every manager. Just as the buck should stop with the deputy who uses gratuitous force, so too should responsibility be assessed with each manager up the line who looked the other way or failed to intervene or impose discipline. It is not a simple task to provide leadership to deputies. One sergeant said that keeping an eye on a deputy and doing the necessary paperwork well was like giving a sergeant “a child to raise and a book to write.”

We heard many complaints from middle and lower management about the additional burdens on them at a time when resources are severely constrained by budgetary and

other considerations. Captains had a consistent complaint that sergeants' "real time" involvement with deputies in the field was diminishing because of increased paperwork burdens related to force documentation. Sergeants and lieutenants echoed a similar theme. Regrettably, the paperwork is vitally necessary to manage risk and to provide data for captains to manage their staff. **We call on the County, however, to allocate additional funds to assure that there are adequate sergeants and lieutenants to discharge the increased responsibilities to manage risk and to be active leaders in the field.** Captains told us that the ideal ratio is one sergeant to six or seven deputies. The current ratio, they said, was one sergeant to sixteen deputies.

Captains also complained about the cumbersome and frustrating nature of the Department's transfer policies and the lack of discretion captains have to refuse to accept transferees except in extreme cases. If captains are to be held accountable for managing risk at the station and for the performance and morale of the deputies under their charge, as we believe captains should be, then a captain's reluctance to accept someone else's "problem child" should be respected. If captains were given greater power to refuse, and if the attempted transfers were made with full knowledge at the transferor and transferee station of the problems, the Department as a whole would be forced to confront the issues and eliminate the problem officers rather than simply shuffling them around. We suggest that the LASD consider renegotiation and revision of current transfer policies.

Over the next six months and beyond, we intend to examine whether standards of accountability are being developed for management. We will evaluate whether managers are getting better at managing risk, dealing with problematic or potentially problematic conduct, and rewarding good conduct. Each manager from the sergeant on up is not doing the job if he or she is sparing of praise for good conduct and fails to reward, promote, and back up those deputies who work hard but use force appropriately, judiciously, and moderately consistent with a proper regard for public safety and officer safety. By the same token, each executive is not doing the job if he or she is not backing up and providing resources and leadership to captains.





## 6 . Training

### *Introduction*

In the last year, the Department has undertaken an ambitious program to train current personnel in four areas: Cultural Diversity, Use of Force, Conflict Resolution, and Sexual Harassment. Training in these areas goes to the heart of the Report's concern with issues of excessive force and sensitivity to the communities served by the Department.

The Joint Statement set out the Department's commitment to the training which shall be reviewed in this section:

*The Sheriff's Department will improve existing programs and is initiating new academy and post-academy teaching and training to further reduce the use of force and to instill attitudes that will lead to greater understanding and tolerance of differences in race, gender, culture and sexual orientation. In that connection, the Department will conduct a study of a representative sample of pending and recently resolved lawsuits and citizens' complaints to identify recurrent situations posing a risk of litigation in order to devise teaching and training materials for academy and post-academy use calculated to reduce the use of force in such situations and hence the risk of litigation.*

Training in cultural and gender diversity is also required by the terms of the Bouman consent decree of August 4, 1993. The Department agreed to provide

*mandatory cultural and gender diversity training for all of the Department's executives, managers, supervisors and deputies to sensitize them to the concerns of and issues pertaining to the management of a culturally and gender diverse work force.*

The Department has devoted significant resources to the development of the new courses. Substantial sums are required not only to plan and present training, but also to

release officers from their daily responsibilities so they can attend lengthy courses.

The training staff has devoted significant effort to the development of the new courses and is open to suggestions for course improvements made by trainees and others. The Department is flexible regarding both content and methodology.

The instructors and supervisors of these courses have enthusiasm and appear dedicated to providing practical, useful training. Instructors have been selected based upon the view that training is most effective when conducted by Department officers who have credibility within the Department and are peers in rank to those being trained. With the exception of the sexual orientation curriculum, there is diversity among its trainers. The LASD has conducted more inclusive preparation of trainers than has occurred in the past. The training would be enhanced even more by greater crosstraining of the instructors in each course. This would enable instructors to respond more effectively to issues which arise during the course and are outside of their own subject areas.

In reviewing the Department's training efforts, we are mindful they represent the finest of the Department's Core Values. At the same time, it is important to acknowledge that these efforts, especially in the area of cultural diversity, are widely perceived by the trainees as representing a sop to outside political pressures.

The challenge, then, is for the instructors is to overcome the resistance of many trainees to gaining fresh perspectives, particularly on culture, gender, and sexual orientation. Such resistance is encountered in most societal institutions which seek to enhance sensitivity in these areas, and overcoming it is a major focus of effective training. In few institutions is this an easy task. Executives and managers can help in this regard by stressing the importance of the subjects and taking actions to regularly reinforce the messages of tolerance and sensitivity.

**The County should provide and the Department should allocate substantial additional funds necessary to complete training much earlier than is currently anticipated. The current schedule — to complete training within four years —**

**fails to recognize the urgency of the matter and undermines efforts to quickly bring risk under control. Except in the area of sexual harassment, the training of deputies comes before the training of management. This ordering does not permit management to be ahead of the game and be adequately prepared to reinforce the training given to the deputies. The Department should substantially expedite uniform training of all personnel, including management.**

### *Use of Force*

The Department established the Force Training Unit in December of 1992.

The Department's stated goals for the Force Training Unit are:

1. To ensure consistency in defensive tactics training;
2. To integrate training about the legal, ethical, policy and tactical aspects of force; and
3. To evaluate on a recurring basis deputies' proficiency in judgment in the application of force.

The Force Training Unit implemented a pilot 24-hour training program in July, 1993. This pilot program represents the Department's most significant efforts to date to effect change in the way force is used within the Department. We attended the training sessions, reviewed the written materials under development for the program, and spoke at length with members of the Department involved in the use of force training. It is an effective and efficient training program. We especially want to single out the work of Lt. Mike Grossman of the Training Bureau. He has done an extraordinarily fine job.

The program we evaluated is merely a pilot program which the Force Training Unit intends to use as the starting point to develop an effective program to train all in-service sworn personnel. As a pilot program, both the classroom instruction and the written materials are in a state of flux, constantly being revised based on deputy evaluations of the

course and the instructors' teaching experiences. The Force Training Unit also is developing a wealth of training materials related to force issues. Because the program is limited to 24 hours of instructions, much of the material cannot be used at the present time. We are particularly intrigued by the potential for using cultural diversity issues in the force training program and hope to see them integrated into the curriculum.

In contrast to what we saw in the conflict resolution training and in the cultural awareness training, the sworn personnel participating in the use of force training appeared very receptive to instruction and, in particular, to the practical exercises. The written evaluations of the course reveal that trainees believe that force training is needed, useful and directly applicable to their jobs.

As noted earlier, budgetary and staffing limitations mean that force training may take up to four calendar years before everyone gets to take the course. Elsewhere, we have pointed out that this training should be accomplished substantially more quickly. It is at the heart of a risk management program addressed to force issues. The goal of the Force Training Unit is to eventually have all in-service sworn personnel receive on-going use of force training of eight hours each trimester.

In the training we attended, the introductory focus is job survival for the deputy. The deputy is told that he or she is being taught about force in order to survive the various levels of scrutiny the deputy and the deputy's actions undergo following a reported use of force. Much of the classroom sessions, in particular, are focused on avoidance of litigation and how to help the Department win litigated cases. Legal standards for use of force are discussed.

There was continuing emphasis of the view that courts are misguided, that attorneys use tricks and underhanded tactics to catch unwary deputies, and that public perception has become all important in recent years. While this emphasis may be an attempt by the instructors to stress to the deputies how important use of force training is for job survival, it left no room for the view that learning how to use force in an appropriate manner is

ethically and morally the right thing to do. It also perpetrates overly cynical and hostile views of the justice system in general. We would like to see less emphasis on cynicism and more on ethics.

Classroom instructors also discussed the importance of such practical matters as report writing. They emphasized the importance of describing the elements that give the deputy legal standing to use force, using descriptive passages in the report, and even describing the emotions the deputy experienced at the time. The classroom instructors also directly addressed the issue of fear, the types of fear, and the appropriate actions to take when a deputy experiences fear on the job. We saw very little emphasis in the classroom sessions on the use of tactical communication as an alternative to force.

Although the emphasis on defeating the plaintiff's attorney in the courtroom was excessive, the Force Training Unit has made a good start at integrating legal, ethical, policy and tactical aspects of force in the classroom sessions.

Although we perceived no significant resistance on the part of deputies to absorb the information presented in the classroom sessions, we did see a lot of passivity. Deputies tended to be more receptive to the use of force physical exercises held in the gymnasium at Star Center.

The initial physical exercises had minimal emphasis on the use of tactical communication as the first step to diffuse a potential use of force situation. In later presentations, however, we saw greater emphasis on tactical communication. The trainers often discussed the use of tactical communication with individual deputies during exercises, pointing out situations where a deputy failed to use tactical communication effectively.

Many of the physical exercises involve handcuffing and restraint methods. The exercises revealed that different deputies were using different types of handcuffing and restraint methods depending on the last time each deputy received training and the station the deputy was currently serving. Since such handcuffing and restraint methods are constantly evolving, the exercise pointed out the importance of on-going training so that

deputies know the most current, effective methods and would recognize proper use of force when such methods are used by other deputies in the field.

One of the exercises our team viewed was specifically designed to instruct deputies how to avoid delivering strikes to the head and the clavicle region. Deputies were instructed that such strikes are justified only when deadly force would be justified. Although, during our audit, we did not see any deputy who had a problem avoiding head strikes, Force Training Unit personnel indicated that when the instructors encounter such deputies, those deputies receive remedial training.

One of the most effective exercises we viewed was the "Redman" exercise, so named because the opponent is in red padding. Certain departmental personnel were attired in red protective padding and were instructed to use one of several different scenarios in acting out the role of the aggressor or perceived aggressor for the purpose of training individual deputies. The Force Training Unit trainers walked through each Redman exercise with each deputy, watching how the individual deputy addressed a potentially dangerous situation and then discussed with the deputy his or her actions. The trainers discussed whether the deputy kept the right amount of distance between himself or herself and the suspect, how the deputy's tone of voice and choice of words affected the suspect, and whether the application of force was proper. The deputies appeared to take the Redman exercises very seriously and appeared very receptive to criticism from the trainers.

The importance of the Redman exercise is that it tests a deputy in both the type of force and the amount of force the deputy chooses to use. Although the deputies readily picked up the mechanics of handcuffing and restraint methods during the exercises focusing on those methods, it was evident during the Redman exercise that many deputies were not able to pick the correct method when confronted with an intimidating situation. We would like to see more time devoted to this type of extremely valuable instruction.

Departmental personnel also told us that one of the goals for the Force Training Unit was to use the information from current civil litigation cases and IAB rollouts to develop more use of force exercises based on real situations. Apparently, the Force Training Unit has not had sufficient time to do so yet to a significant degree.

The Department has developed an effective use of force training program. The individuals who developed the pilot program did a fine job. The Department's next challenge in this area is to better integrate tactical communication (both in the classroom sessions and in the gymnasium exercises) as the first step in defusing a potential use of force problem and to further integrate legal, ethical, policy and tactical aspects of force.

In the next six months, we will examine the Department's success at implementing the new use of force training at all levels, and the Department's efforts to achieve its goal of providing eight hours of use of force training to all deputies each trimester. We will also review efforts to integrate other areas of training, such as cultural awareness issues as they relate to force issues into the curriculum.

## *Cultural Diversity*

### **In-Service Training of Deputies**

The Department has begun to provide a 16-hour in-service training course in Cultural Diversity to all deputies. The objectives of this course are to enable the deputies to understand their own prejudices and biases, and to broaden their perspective of the community and the policing profession. The Department estimates that it will take two and a half to four years, given current resources, to provide this training to current personnel. The Bouman consent decree requires the Department to complete this training by August, 1997. A pilot project to train about 300 people at three stations is nearing conclusion.

On the first day of this course, a Department executive, Chief Baca in this instance, provided an introduction which emphasizes the importance of the subject. To encourage



class participation, he elicited discussion from the deputies on a variety of topics — why they had joined the department, their current state of morale, and what they hoped to get out of the class. Some deputies responded to the last question, “I’d rather be at the station.” While this discussion was very effective in getting people to participate, it did reveal significant resistance to this class and other changes underway.

The importance of this kind of introduction cannot be overemphasized. While acknowledging respect for deputies’ concerns, the Chief also placed the full weight of his authority and influence behind the subjects to be presented. This strong leadership is critical for deputies to overcome the cynicism they bring to the course. This training will have an impact only if the Department’s top management shows that they believe in it and are not merely offering it to propitiate outside critics.

The first day presented a curriculum based upon materials developed by the Anti-Defamation League and the National Conference of Christians and Jews. There was discussion, followed by exercises, on prejudice, discrimination, perception, bias and stereotyping. In these exercises, the instructors were purposely nonjudgmental and respected the voicing of differing points of view. There were candid discussions of real-life work problems, such as finding a racial slur on the blackboard during a briefing. In at least one class we observed, the breadth of the discussion of such issues was compromised, in the view of the instructors, by lack of ethnic and gender diversity among the trainees.

The second day focused on the “ethnic specific” subjects of African-Americans, Asians and Latinos. The day was introduced by an instructor who emphasized, again, the importance of the changes promoted. In this introduction, and echoed throughout both days, instructors stressed that even those who do not agree with the changes need to understand that the Department is serious — “If you don’t buy this change, go be a manager at McDonald’s!”

The ethnic-specific segments provided instruction in cultural history and customs

to assist the officers to understand and interact with each group. In the African-American segment, there was discussion of the dehumanizing effects of slavery, Jim Crow laws, and segregation in an effort to increase understanding as to why many African-Americans have a high level of distrust of government and of law enforcement. Black and white heroes of the Underground Railroad, civil rights leaders, Malcolm X and the growing Muslim movement among African-Americans were also discussed.

In the Latino segment, there was discussion of fear of law enforcement based upon negative experiences with Mexican “federales,” family customs and the most respectful ways to approach and take into custody Latino males.

A segment on Southeast Asians presented on one day by an outside expert on Vietnamese refugees explained their distrust of whites due to colonial experience, hardships and stresses on refugees, cultural conflicts between the immigrant generations, and Asian gangs.

The multi-ethnic instructors in this course are to be commended for their dedication and their personal courage in sharing their thoughts and views on sensitive topics before a less than universally receptive audience. They field very difficult questions, particularly on African-American issues, such as “Why do Blacks always say, ‘You’re only arresting me because I’m Black?’” and “Why are there minority officer’s associations, when if we (whites) formed one, we would be accused of being the Ku Klux Klan?”

Several deputies were quick to express their hostility toward this “*career* survival class.” One deputy argued that “the *community* is the one that’s disrespectful. They should learn our culture.” Another complained that the Department wants them to transform them into “humorless robots.” Another deputy stated, “I’m worried about cuts in our health insurance. Why are they spending money on this?” When instructors counseled deputies not to fight change, one deputy responded, “It’s not just this class we’re objecting to. It’s the whole *spectrum* of changes. We’re making the wrong adaptations. As the streets get wilder, they’re asking us to be softer.”

Instructors' handling of these difficult topics is good given their rank and the resources and support they are currently receiving. If these instructors are to be as effective as necessary for training in this difficult area, however, the Department needs to consider ways to reinforce their efforts such the addition of more trainers, an infusion of executive level reinforcement on the second day, and the development of Departmental positions on some of the most sensitive issues.

### **Other Cultural Diversity Training**

A Cultural Diversity course was recently presented to a class of about fifty in Field Operation School (Patrol School). The curriculum was almost identical to the course given to deputies, described above. A segment on the second day, "Mainstream American Beliefs," emphasized the similarities in values and goals of all ethnic groups. The African-American segment had been strengthened by the addition of more powerful video segments and the practice of soliciting anonymous questions from the audience for discussion.

Eight hours of Cultural Diversity Training on custody-specific cultural issues is given in Custody to deputies, sergeants and lieutenants. Two thousand of three thousand officers have completed this course.

A four-hour block of Cultural Diversity Training is now included in Field Training Officer training. This block teaches FTOs how to teach a trainee serving an ethnically diverse community the techniques necessary to identify and resolve cultural conflicts.

Training of upper echelons in Cultural Diversity is in the planning stages and is expected to take place by mid-1994. If management is to be effective in reinforcing the cultural diversity training being given to the officers they supervise, it is important that their training be integrated with that given to deputies, as is planned for the Sexual Harassment Training.

## *Gay and Lesbian Issues*

The Kolts Report concluded that the Department had created a very difficult environment for gays and lesbians to work in or find employment: The Sheriff had not yet issued his statement, which has now been released, that discrimination against gays and lesbians would not be permitted; derisive and harsh comments about gays were made openly; the Department refused to target its recruiting efforts to gays or lesbians; and the Department had only just begun some training in the Sheriff's Training Academy on gay and lesbian issues. Over the last year, progress in this area has remained slow, although the situation has not been stagnant. The gay and lesbian issues merit focused discussion because of their inherent difficulty for some and the continued discomfort of some Departmental personnel in confronting these issues.

The Department adopted a non-discrimination policy over a year ago which clearly prohibits discrimination based on sexual orientation. We nonetheless heard conflicting and inconsistent accounts about what the Department was doing to enforce and implement the policy.

At the same time, we acknowledge that there has been forward movement within the Department on these issues. The Department continues to offer some training sessions on gay and lesbian issues. The LASD was very supportive of a gay deputy who recently revealed his sexual orientation. The Department strives to build upon its good working relationship with the City of West Hollywood with its large gay and lesbian population.

As regards training, the Department continues to offer occasional training sessions on gay and lesbian issues taught by members of the gay and lesbian community who are not members of the Sheriff's Department. The most recent Patrol School curriculum, for instance, included a two-hour session of such training. The session we attended was very similar in format and content to the Academy class we attended a year and one-half ago in connection with the Kolts Report. Although the Department is to be commended for

continuing to offer these occasional classes, it is noteworthy that unlike most of the training the Department offers, the sessions on gay and lesbian issues are not taught by Sheriff Department personnel.

One of the strengths of the cultural diversity training is that the Department has put together a group of individuals who are representative of the diversity within Los Angeles County. An African-American deputy was effective in helping trainees understand African-American issues because such a deputy not only had firsthand experience with such issues but also understood the culture of the Sheriff's Department. Although the number of openly gay male deputies within the Department remains small, just three at the present time, and although we are unaware of any openly gay female deputies, the Department should take up the offers of openly gay deputies who voluntarily and affirmatively want to assist in training on gay and lesbian issues at all levels, including Academy training, custody and Patrol School. This training by deputies could perhaps be in conjunction, at least initially, with members of the gay and lesbian community from outside of the Department.

We also note that the cultural diversity training sessions which we attended during this review period included only passing references to gay and lesbian issues. In the January Joint Statement, the Department committed to provide training "to instill attitudes that will lead to greater understanding and tolerances of differences in race, gender, culture and *sexual orientation*." (emphasis supplied). The absence of a specific, permanent segment in the current cultural diversity training on sexual orientation appears to be at variance with this commitment.

Given that commitment, and given that the gay and lesbian community is a significant and visible segment of the culture of Los Angeles County, and in particular of the LASD's largest contract city, it seemed odd that gay and lesbian issues were not better integrated into the cultural diversity curriculum.

Clearly, we do not wish to single out the LASD for its reticence to be out ahead of

others on gay and lesbian issues. Society in general, and military and paramilitary organizations in particular, have not evolved to the point where discrimination based upon sexual orientation is given the same attention as other invidious forms of discrimination. But the LASD should not be behind other first-class urban police departments in this area. The LASD has not made the same progress as its peers that have dealt more successfully with the issue. See National Defense Research Institute, Sexual Orientation and U.S. Military Personnel Policy: Options and Assessment, pp. 15-20; 106-157. Rand, 1993. In this regard, we note that despite the Department's new non-discrimination policy, members of our team continue to hear insulting or derisive remarks about gays during ridealongs with Sheriff's deputies, and the number of openly gay or lesbian deputies in the Department remains smaller relatively than in other major urban police departments, including, for example, the LAPD, the NYPD, and the Chicago, San Diego, and Seattle police departments.

On the other hand, when the third openly-gay deputy within the Department decided to reveal his sexual orientation approximately a year ago, the Department was very supportive and encouraging of the deputy in his decision to come out. There are clearly people within the Department who understand how to deal sensitively and sensibly with gay and lesbian issues, and in this regard we particularly commend the positive role of Captain Rachel Burgess.

We also wish to reiterate that for several years, the Department has had a good working relationship with officials in the City of West Hollywood in addressing gay and lesbian concerns within that municipality. The Department has recently instituted an apparently successful undercover sting operation in the City of West Hollywood to catch gay-bashers and thus protect members of the gay and lesbian community. The West Hollywood station remains an important asset for the entire Department in effectively addressing these issues.

In the area of recruitment, we found it difficult at first to figure out if the Department was devising "new, proactive, and imaginative programs to reach out and to increase the

hiring and promotion of . . . gay and lesbian individuals” as promised in the January, 1993 Joint Statement of Sheriff Block and Judge Kolts. Nevertheless, the senior executives assured us that the LASD will implement proactive programs to reach out to gay and lesbian individuals; that the Department will better involve the gay community; will seek out events where it can expect to find gays and lesbians in attendance; and will advertise openings in the Department in ways calculated to include the gay and lesbian audience.

At the same time, the Department wanted to make clear that it is not giving, or contemplating giving, the gay and lesbian population any “special rights” or “favored” treatment. Indeed, we perceive that the LASD’s efforts as regards gays and lesbians remain much less proactive and aggressive than efforts to recruit other minority groups. Although we do not agree that the LASD should be less proactive regarding gays and lesbians, the fact that the Department is less active should put to rest any uninformed or inaccurate arguments that the Department has “gone too far.”

In the next review period, we will specifically focus on how Department is fulfilling its commitment in the Joint Statement to establish the proactive and imaginative programs necessary to increase the hiring of gay and lesbian individuals. In addition, we will also look at the Department’s efforts to permanently integrate gay and lesbian issues into the cultural diversity curriculum, to use openly gay and lesbian deputies as trainers and thus improve the training on gay and lesbian issues, and to improve the atmosphere within the Department for gays and lesbians so that offensive remarks and actions are kept to a minimum. Most importantly, we will be looking for evidence that the message has reached all personnel within the Department that the LASD is committed to the comfortable integration of gays and lesbians into the LASD and will not tolerate a hostile or bigoted atmosphere.

## *Conflict Resolution*

Training in Conflict Resolution as a means of resolving citizen complaints has been presented to a group of fifteen Captains and to a group of Lieutenants.

Conflict Resolution is a method to reduce those citizens' complaints which cannot be resolved because there is no independent evidence and the complaints come down to "his word against mine."

Conflict Resolution as a means of resolving complaints is available when both the citizen and the deputy are willing to agree to mediate their dispute. It is presented as a "win/win" method in which both the citizen and the deputy have an opportunity to present their views about the dispute; the citizen achieves greater resolution than through the formal complaint process; the deputy achieves closure much more quickly; and the station "wins" due to substantially reduced paperwork and investigation. This method works best on less serious complaints and those that are unlikely to be definitively resolved through the formal complaint procedures.

Communication theory is discussed to increase understanding of the great extent to which voice and body language, rather than the words used, convey meaning. Obstacles to good listening are discussed including one-upmanship, offering advice, jumping to conclusions, interrupting and forming judgments (the "Hall of Famer obstacle of all time.")

Techniques for conflict resolution are then discussed in detail. The instructors point out that utilizing the technique requires suspending the "search for truth" in order to create the supportive environment necessary to allow each side to present its point of view fully.

In the Captains' class, following this presentation of conflict resolution theory and techniques, there was substantial discussion as to whether or not deputies would be willing to utilize this technique, despite the presence of several captains who heavily utilize the technique. There was also significant uncertainty as to whether the method was optional or mandated. Following the showing of a videotape which demonstrated a simple instance of



conflict resolution, Captains' support and understanding of the technique seemed to increase greatly.

In the Lieutenants' course, feedback from the Captains' class resulted in a change in the order of training and clarification that Conflict Resolution is a mandated Department technique. The Department plans to provide this training to all Lieutenants.

### *Sexual Harassment*

Training of up to two hours on sexual harassment has been given in the past to recruits, sergeants, civilian supervisors, new lieutenants and most patrol and custody personnel. More thorough Department-wide training on this important subject is required by the Bouman consent decree. Commencement of this training awaited the signing of the decree and finalization of the curriculum following comments by plaintiffs' counsel. An 8-hour Sexual Harassment Curriculum for Executives and Managers was approved on September 15. This curriculum appears to be comprehensive and thoughtful.

Training of executives is expected to be conducted in October, to be followed by commanders and captains (eight hours), and then sergeants and lieutenants (six hours). Training of deputies (four hours) is expected to start in early 1994 and to be completed within four years.

The Department is to be commended for the integrated, "top-down" design of this training, in which management is trained first and at greater length than other staff in order to assure management understanding of appropriate conduct. This design should equip management with the skills necessary to reinforce training subsequently received by deputies. The Department should consider such a design for other sensitive areas such as culture, gender, and sexual orientation.

## *Effectiveness of Training*

The Department's ambitious training is central to its efforts to bring about important changes in both skill and behavior within the Department. As stated above, great thought has gone into curriculum development and improvement, and the instructors are sincere and dedicated.

Less clear at this time, however, is how effective these training programs will be. The Department's new Training Administrator, Dr. John Chamberlin, is in the process of developing evaluation measures for the Cultural Diversity, Use of Force, and Sexual Harassment courses. Through his efforts, a pre-test and test have been instituted for the Sexual Harassment and Use of Force classes, and similar tests in the Cultural Diversity course are under consideration at this time.

Results of such testing, he recognizes, do not necessarily correlate with one's subsequent behavior in the field. As a result, Dr. Chamberlin is also developing follow-up measurements to be administered six months following training, in order to attempt to measure whether training lessons have been retained and, more fundamentally, whether behavior has been altered by the training. This may include looking at information such as the frequency of civilian complaints.

In the next six months, we will be interested to review the measures the Department will use to assess the effectiveness of its substantial investment in training.



## 7. Personnel Issues

### *Affirmative Action*

In the last year, the Department has been unable to hire due to budgetary constraints. Most promotions have been held up as well. Other than a reassignment of captains in August, there has been little movement within the Department. As discussed elsewhere, this contributes to morale problems. It also limits the Department's ability to improve its affirmative action statistics.

As shown in Table 2, lack of hiring and promotion has resulted in few changes in staff composition since our initial Report. The primary changes are personnel reductions through attrition and elimination of positions. These reductions, which took place from the deputy through the Captain level, generally occurred across gender and ethnic groups.

At the upper echelons, due to the small number of minorities and females occupying those positions, a small reduction causes concern. The loss of one African-American Commander and one African-American Captain is significant. Among Latinos, there was a loss of one Captain but a gain of one Commander. Reductions in African-American and female sergeants further reduce the pool from which promotions can be made.

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**Los Angeles County Sheriff's Department Breakdown by Rank, Sex, and Ethnicity as of August 30, 1993**

Class	Total	Male	Female	Caucasian	African-American	Hispanic	Native American	Asian	Filipino
Sheriff	1	1 100%	0	1 100%	0	0	0	0	0
Undersheriff	1	1 100%	0	1 100%	0	0	0	0	0
Assistant Sheriff	2	2 100%	0	1 50%	1 50.0%	0	0	0	0
Chief	8	8 100%	0	5 62.5%	2 25.0%	1 12.5%	0	0	0
Commander	18	16 88.9%	2 11.1%	16 88.9%	1 5.6%	1 5.6%	0	0	0
Captain	51	46 90.2%	5 9.8%	45 88.2%	2 3.9%	3 5.9%	0	1 2.0%	0
Lieutenant	288	267 92.7%	21 7.3%	243 84.4%	20 6.9%	22 7.6%	0	3 1.0%	0
Sergeant	892	809 90.7%	83 9.3%	755 84.6%	49 5.5%	77 8.6%	1 0.1%	10 1.1%	0
Deputy IV	102	95 93.1%	7 6.9%	76 74.5%	13 12.7%	12 11.8%	0	1 1.0%	0
Deputy	6187	5367 86.7%	820 13.3%	4297 69.5%	583 9.4%	1127 18.2%	5 0.1%	140 2.3%	35 0.6%
Deputy Trainee	0	0	0	0	0	0	0	0	0
<b>Totals</b>	<b>7550</b>	<b>6612 87.6%</b>	<b>938 12.4%</b>	<b>5440 72.1%</b>	<b>671 8.9%</b>	<b>1249 16.5%</b>	<b>6 0.1%</b>	<b>155 2.1%</b>	<b>35 0.5%</b>
<b>Civilian Totals</b>	<b>3654</b>	<b>1220 33.4%</b>	<b>2434 66.6%</b>	<b>1250 34.2%</b>	<b>1032 29.9%</b>	<b>805 22.0%</b>	<b>12 0.3%</b>	<b>258 7.1%</b>	<b>234 6.4%</b>

In future reviews we will revisit the affirmative action statistics in order to assess the progress the Department makes on this topic.

## *Recruitment*

Because the Department has not been actively recruiting or hiring during the past year and a half, our analysis focuses on the Department's stated goals in this area. The Department is currently working with the School of Psychology at UCLA to examine recruitment, hiring, background checks, and training. It will also look closely at the psychological testing the Department uses to evaluate potential hires and the Department's use of the results of the testing. Chief Graham hopes to overhaul the recruitment process based on the UCLA study and hopes to have it implemented by the time the Department begins the next phase of hiring. We commend this ambitious undertaking.

We understand that when the Department is authorized to hire, the Department will feel considerable pressure to hire people and get more deputies out on the street quickly. The Department should not permit this pressure to overwhelm the Department's efforts to create a police force that is representative of Los Angeles County based on gender, race, ethnicity and sexual orientation. The LASD should exercise particular care not to rely excessively on pools of previously screened recruits whose selection may not have met current standards.

During our next review, we will focus on the results of this UCLA study and the Department's attempts to overhaul its recruiting, hiring and training programs. We will also look at the Department's efforts to diversify the Department with respect to gender, race, ethnicity and sexual orientation.

## *Ombudsperson / Career Resources Center*

Earlier this year, as a result of the Bouman consent decree, the Department established the Ombudsperson/Career Resources Center. Under the decree, the Ombudsperson's function is to resolve discrimination complaints:

*Any applicant who perceives that they have been subject to gender or ethnic bias or discrimination can, in addition to the already established Department grievance procedure, confer with the Ombudsman in an informal confidential manner in an attempt to resolve the matter. The purpose of the Career Resources Center is: [T]o encourage and enhance the career and professional development and advancement of female deputy sheriffs, minorities and any other interested employees to assist such to enable them to compete on a fair and equal basis, to ensure equal access to developmental experience and advancement opportunities for such employees and to engender commitment throughout the County and Department to achieve these objectives.*

In the Joint Statement, the LASD agreed that the provisions of the Bouman decree would apply as appropriate to racial and ethnic minorities and gay and lesbian individuals. Although its services have been publicized only since the signing of the consent decree in August, the Ombudsperson has investigated twenty personnel complaints since April. A majority of these cases involve hostile work environment and other sexual harassment allegations, with other cases alleging gender discrimination and age discrimination. The unit has not yet handled any cases alleging discrimination based upon race, ethnicity, or sexual orientation. The teletype announcing the formation of the unit did not mention such complaints, nor does the unit currently plan outreach specifically aimed at soliciting such cases.

Although a majority of the complaints are resolved informally, the unit has the power to conduct a formal investigation and to recommend the imposition of discipline. The unit has

developed a database system which will track the work of the office by person complained against and by type of complaint.

In addition to its complaint resolution function, the unit has been involved in the development of the sexual harassment training which will begin shortly.

The Career Resources Center seeks to encourage career and educational growth through a library, videos, regular circulation of all job openings, mentoring and college fairs.

The Ombudsperson/Career Resources Center staff is serious and enthusiastic about the unit's purposes. The unit, which reports directly to the Office of the Sheriff, to date appears to have been provided with the necessary resources and support. In our next review, we hope to assess the work of the office after it has been in operation for a reasonable period of time. We will also assess if the unit's mission has been adequately publicized so as to reach not only women but also the other groups the LASD committed in the Joint Statement to bring within the unit's ambit.

## 8 . C a n i n e s

The Kolts Report described numerous lawsuits that had been filed against the Department accusing it and individual deputies in the canine unit of excessive force and racial discrimination in the use of dogs. Plaintiffs complained of being attacked and mauled by the LASD's dogs without justification. We examined these claims and lawsuits and concluded that the LASD should improve the operations of its canine unit.

The Kolts Report made five recommendations to improve the LASD's canine unit. The LASD appears to have implemented, to one degree or another, or to be in the process of implementing, each of the five recommendations.

### *Canine Announcements*

The first recommendation stated, "The canine announcement should be mandatory in all cases, and be made in English and Spanish."

According to the Joint Statement, the LASD has "clarified current policy by requiring that an announcement will be made in English and Spanish prior to release of police dogs in all instances." *Id.* at 2 (emphasis added).

In fact, canine policy has not been clarified to make announcements mandatory "in all instances." Instead, canine policy still sanctions "unannounced" searches — as reflected in a "Canine Services Detail Management Directive" dated February 26, 1993, from the then-Captain of SEB. The directive states:

*Canine announcements shall be made, in English and Spanish, in all deployment situations. Any exceptions to this policy shall be fully justified by the circumstances. When a K-9 announcement is not made due to an emergent situation, individual handlers shall articulate the reasons on a canine activation form, supplemental reports, and in a memorandum to the Canine Services Detail Lieutenant. These memorandums shall be reviewed by the Captain of the [SEB] and the Canine Review Committee.*



To examine how the LASD's announcement policy has been applied in practice since the issuance of the Kolts Report — and, in particular, to evaluate the circumstances considered “emergent” and thus supposedly justifying unannounced searches — we reviewed dog bite reports and statistical data provided us by the LASD for the period June 1992 through August 1993.

These reports and data suggest that unannounced searches are the exception, not the rule. During the subject period, there were a total of fifty-five apprehensions by dog bite. Of these, fifty, or almost 91%, were preceded by canine announcements made in English and Spanish.

But these reports and data also suggest that the few unannounced searches that were conducted were not justified by “emergent” circumstances. The following example illustrates this point. On June 2, 1993, at approximately 4:00 a.m., an armed robbery occurred at a jewelry store in a mall in Palmdale. The four suspects exchanged gunshots with security officers at the location and then fled in a vehicle. After a vehicle and foot pursuit, three of the four suspects were apprehended; the fourth, who had shot at the deputies, was outstanding. A containment was established, and deputies requested SWAT and canine units to assist in the search. The report of the ensuing canine search explained that no canine announcement was made before deployment “due to the clearly exhibited intent by the suspect to avoid capture by shooting at pursuing officers.” At the same time, however, the report reveals that “numerous directions were given via the air unit's P.A. system instructing residents to stay inside and lock their doors because a felony suspect was at large in the area.” We question why the air unit's P.A. system could be used to warn residents to stay indoors without endangering deputies' safety, but not to make the canine announcement.

This point is also illustrated by the following example. On September 8, 1992, deputies in Santa Clarita requested help from SWAT and canine units to apprehend an armed robbery suspect who had taken cover in a home. The suspect was believed to be

armed with a shotgun and other weapons. A canine was deployed, without a canine announcement, and the dog apprehended the suspect. According to the report, no announcement was made because of the violent nature of the crime, the suspect was armed, and because SWAT deputies were poised to enter the residence after the deployment of the dog. But the report also noted that "calls and announcements" had been made in an attempt to "cause the suspect to surrender" before the dog was deployed. We question why, in these circumstances, a canine announcement could not have also been made.

In our view, a canine announcement can and should be made in every instance, without exception. Even in the foregoing cases, which involved the deployment of SWAT teams to apprehend armed and apparently dangerous suspects, it appears that canine announcements could have been made — whether by helicopter or radio car P.A. system, or otherwise — without putting the deputies in further danger.

### *Bite Ratios*

The second recommendation stated, "LASD supervisors should automatically review the performance of the canine unit whenever its bite ratio rises above 20 to 25%."

In its Response to the Kolts Report, the LASD noted that, under prior policy, all bites were reviewed at the supervisory level as a matter of course, but there was no written requirement that ratios be reviewed. The LASD now reviews bite ratios at the "executive level" every month, whether or not the bite ratio rises above 20 to 25%.

The LASD's bite ratio remains below 30% — the bite ratio which experts generally agree should not be exceeded. According to the LASD's figures, during the period June through December, 1992, canines were deployed in 514 searches leading to the apprehension of 109 suspects. Twenty-eight of those suspects received dog bites — a bite ratio of 26%. During the period January through August, 1993, dogs were deployed in 618 searches leading to the apprehension of 126 suspects. Twenty-seven of those suspects received dog bites — a bite ratio of 21%.

## *Release Policy*

The third recommendation stated, "The LASD policy should provide that a handler determine at the earliest possible instant when a bite is occurring if the suspect is armed. If the suspect is not, the handler should immediately order the dog to release the suspect whether or not the suspect is struggling with the animal."

In its Response to the Kolts Report, the LASD stated that it "strongly agrees with this recommendation," and that the canine policy will be "updated" to reflect language "now being designed" on the subject of when to order a canine to release a suspect. In the Joint Statement, the LASD stated that it would "reformulate its policy requiring that the dogs be ordered to release the bite as soon as it is determined that the suspect is not carrying a weapon."

The LASD has reformulated its release policy. In a "Canine Services Detail Management Directive" dated February 26, 1993, the then-Captain of SEB stated:

*In keeping with the [LASD's] use of force policy, wherein we are mandated to use only the level and amount of force necessary to overcome resistance, the following direction relating to the use of [LASD] canines will be adhered to by all handlers. In situations where a [LASD] canine finds or bites a suspect, the concerned handler will as rapidly as possible assess the need for their canine to contain or seize the suspect. At the first possible moment that it is determined that the suspect is not carrying a weapon, the canine will be called off. This will be accomplished without delay. Handlers will factor into their call-off decision the fact that the average person will struggle if being seized by a canine. This struggling, alone, will not be cause for not calling of the canine. In instances where a Department canine bites a suspect, a reference to the duration of the canine's contact with the suspect will be included in the handler's supplemental report. This statement will be included in all such supplemental reports without exception.*

Our review of bite reports and supplemental reports from the period after the issuance of the directive appear to establish that handlers are complying with the “release policy.”

### *Institutional Bias*

The fourth recommendation stated, “The LASD should eliminate any institutional bias to deploy dogs against minorities.”

In its Response to the Kolts Report, the LASD did not dispute that statistics support the claim that the victims of dog bites are primarily Latino and African-American, but it rejected the notion that there was an institutional bias to deploy the dogs against minorities. The LASD stated, however, that it would focus on the issue, and noted that new record-keeping requirements on race will enable it to improve its ability to monitor the concern expressed in the Report.

In office correspondence from the then-Captain of SEB to the Chief of Field Operations, Region III, dated April 28, 1993, the Captain reported that, based upon his investigation, the LASD does not deploy canines primarily against Latino or African-Americans. Instead, he stated, the canines are deployed based on a strict set of criteria set forth in the LASD’s written canine policy, combined Field Operations Directive 86-37. As the Captain correctly noted, those criteria do not include any reference to the suspect’s race or ethnicity.

That fact, taken alone, is not, of course, dispositive. Institutional bias could be grounded on tacit policies or practices —whether of the LASD or of its individual handlers. But we have uncovered no evidence that such tacit policies or practices exist. Moreover, there is evidence to support the LASD’s contention that the opposite is true. First, the LASD’s records suggest that LASD canine handlers frequently do respond to calls for assistance in a search without knowing anything about the suspect’s background or appearance.

Second, the LASD's records also suggest that, as the LASD contends, canine apprehension of minorities roughly parallel arrest figures. In 1992, Latinos, African Americans, Caucasians and others accounted for, respectively, 48%, 31%, 19% and 4% of total arrests for five major felonies — robbery, burglary, assault with a deadly weapon, attempted murder and rape. During the same year, and for the same major felonies, Latinos, African-Americans, Caucasians and others accounted for, respectively, 49%, 36%, 13% and 2% of total canine apprehensions (with or without dog bites).

Third, the LASD's records suggest that bite ratios for minority suspects, while higher than for Caucasians, are at, about or below the 30% ceiling discussed above. In 1992, the bite ratios for Latinos, African-Americans and Caucasians were, respectively, 28%, 16% and 2%. During the period January through August 1993, the bite ratios for Latinos, African-Americans and Caucasians were, respectively, 16%, 31%, and 16%.

Still, dog bites, particularly of minorities, present a serious litigation risk for the Department. And that fact leads us to persist in the view that the LASD should continue to focus on this issue, as it has begun doing.

### *Force Scale*

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

In its Response to the Kolts Report, the LASD stated that the "use of canines is considered to be on the high end of the force scale but substantially below the use of firearms." The LASD added that the scale would be modified to include canines. The LASD also expressed its agreement with the recommendation that less harmful means of apprehending suspects be used wherever possible.

Since the issuance of the Kolts Report, the LASD has adopted a policy that sets forth

a range of force options, the availability of each being dependent upon the suspect's conduct. Canines are included as a force option where the suspect's conduct is "assaultive" or "high risk." Other options for such conduct include "less lethal weapons," "impact weapons," "personal weapons," and "carotid restraint." Lesser force options for a suspect whose conduct consists of "resistance" include "defensive tactics," "intermediate weapons control techniques," "o/c spray chemical agents," "arrest, search & handcuff," and "control holds." Firearms and "impact weapons [to] vital areas" are included as force options for a suspect whose conduct is "life threatening." All of the foregoing force options are "reportable force."

We believe that this policy represents a credible effort to define where canines fit on the "force scale." We also believe that the policy specifies less harmful alternatives which can be applied in appropriate cases. Because the policy is new, we are unable to draw firm conclusions about its effects at this time. However, we are encouraged by LASD data showing that canines are being deployed less frequently in searches, and that those searches are resulting in fewer bites. During the period January through August 1993, canines were deployed in 618 searches leading to 27 dog bites. During the same period in 1992, canines were deployed in 776 searches leading to 38 bites. While the cause of this drop is uncertain, it is possible that it reflects a willingness to consider and to apply less harmful force options.

It appears that the LASD has made progress in implementing the recommendations of the Kolts Report to improve the canine unit. We will continue to monitor this area carefully.



## 9. The Ombudsman & Judges' Panel

The Kolts Report found that the LASD had too many officers who had resorted to unnecessary and excessive force; that the Department's internal investigations of citizens' complaints were in many instances flawed, incomplete, and biased in the police officer's favor; that the Department had not done an adequate job of disciplining officers who had misused force; and that residents who attempted to complain about misconduct by Sheriffs' Department personnel were in some instances discouraged and impeded from filing complaints.

The Kolts Report concluded that for purposes of legitimacy, integrity, accountability, and trust, there should be civilian participation to assure that citizens' complaints were investigated in a timely, thorough and fair way. To that end, Judge Kolts recommended the appointment of an ombudsman and a panel of judges. (The ombudsman discussed here is different from the Department's internal ombudsperson described in Chapter Six). In the Joint Statement of January 4, 1993, the Sheriff's Department agreed to these recommendations:

*The Sheriff's Department is committed to meaningful community and citizen involvement in the resolution of grievances or complaints concerning allegedly excessive force. To that end, the Sheriff and the Board of Supervisors will select an individual of great integrity and independence to assure that citizen's complaints are investigated in a timely fashion and who will communicate to the citizen the progress of an investigation and its results to the extent permitted by law. That person will be denominated an ombudsman and shall be guaranteed sufficient access within the Department to be able to perform the assigned functions.*

*The Department is also committed to meaningful citizen participation to assure the adequacy, thoroughness and reasonableness of departmental resolution of citizen complaints. To that end, a panel of retired judges reflective of the*



*diversity of the County population and mutually acceptable to the Sheriff and the Board of Supervisors shall be authorized to review all records in connection with the adjudication of a citizen's complaint of injurious force in all instances where the citizen's complaint has been held to be unfounded or unable to be resolved and the citizen requests such a review. The reviewing judge . . . will either affirm the adjudication of the citizen's complaint by the Department or remand it for further investigation or readjudication if in the opinion of the judge the record does not support the result. After this review, the Sheriff will make the final determination.*

Over the course of the last nine months, the respective roles of the ombudsman and the panel of judges have been amplified and fleshed out. The Sheriff's Department on its own initiative put forward proposals to expand the role of the ombudsman to give him or her adjudicatory powers parallel to those given the panel of judges in certain cases. The County is in the process of evaluating applications that it has received for the ombudsman position. The Board of Supervisors requested retired Presiding Superior Court Judge Richard P. Byrne to recruit candidates for the panel of judges and propose them to the Board of Supervisors and the Sheriff. Judge Byrne is doing so.

As envisioned by the Board of Supervisors and the Sheriff, with input from the County Counsel's Office and others, the ombudsman will (i) make the complaint process easier and less intimidating for the citizen to employ and comprehend; (ii) report to the citizen concerning the progress of an investigation of a complaint and its results to the extent permitted by law; (iii) facilitate a consensual resolution of dissatisfactions by the citizen with the investigatory process or its results; (iv) failing a consensual resolution, review the thoroughness of investigations and the reasonableness of resulting findings in certain instances; and (v) arrange for the review by a panel judge of more serious force cases upon request of the citizen.

These principles were embodied in Ordinance No. 93-0053 which was unanimously adopted by the Board of Supervisors at its meeting of July 6, 1993. The Ordinance added Section 1 Chapter 2.37 to the Los Angeles County Code and created a County department known as the "Office of Ombudsman." The Ordinance provides that the Office of Ombudsman shall be under the direction of the ombudsman, who shall be selected by the Sheriff and the Board of Supervisors, and who shall be an appointive County officer. A timetable was established for the recruitment and selection of the ombudsman which is proceeding on schedule. It is anticipated that the ombudsman shall be selected and announced in November, 1993.

The duties and responsibilities of the panel of judges have also been refined over the last nine months. The specific procedures to be followed by the complainants, the Department, and the judges have not been finalized, and it is contemplated that the panel judges themselves will have input into the development of those procedures. As a general matter, however, it is contemplated that if the ombudsman is unable to facilitate a consensual resolution, the complainant may cite specific reasons for dissatisfaction with the investigation or result and request a review by a panel judge in any force matter involving serious injury or death. At minimum, the jurisdiction of the panel judge includes cases involving force leading to an emergency room visit. The Sheriff, in his discretion, may determine that a review otherwise within the jurisdiction of the ombudsman should be conducted by a judge from the panel.

The judge will be given the entire file for review, including physical evidence, tape recordings of witness interviews, and the like. If the judge determines that the investigative record is inadequate or incomplete, he or she will afford the Department the opportunity to amplify the record and reconsider the result in light thereof. If the judge determines that the administrative record was adequate but that the record does not reasonably support the outcome of unfounded or unresolved, the judge will make findings and transmit them to the complainant and to the Sheriff for his final determination. If the judge determines that the

record is adequate and reasonably supports the outcome, the judge will make findings and transmit them to the complainant and the Sheriff. The procedures as envisioned appear to be balanced and are not invasive of the Sheriff's decisionmaking authority regarding discipline.

As provided in Section 2.37.030 of the Los Angeles County Code, a waiver will be required of the complainant relinquishing any right to subpoena the ombudsman or panel judge as a witness in any further legal action or to subpoena the files or records of the ombudsman or panel judge. With certain specified exceptions, records of the panel judges and the ombudsman shall be privileged and confidential. These provisions are necessary for the judges' panel to work as envisioned, and we endorse them.

Our assessment is that all concerned parties have made substantial progress toward implementation of the agreements between Judge Kolts and the Sheriff with regard to the panel of judges and the ombudsman. We anticipate that the panel of judges will include distinguished jurists of diverse backgrounds, and we will assess whether our anticipation in that regard was correct in our next report. It is our hope that the existence of the Office of Ombudsman and the panel of judges will have an immediate salutary impact and will quickly enhance public confidence in the manner in which the Sheriff's Department receives, investigates, and resolves citizen's complaints. We intend to begin to assess this in our next report.

Over the next six months, we thus propose to investigate and report upon (i) the establishment of the Office of Ombudsman and the panel of judges; (ii) the establishment of a professional working relationship between and among the ombudsman, the judges, and the Sheriff's Department; and (iii) our initial views regarding the impact of the ombudsman and the judges upon the process for resolution of citizen complaints regarding force. It is our hope that these processes will enhance trust, lead to confidence in the integrity of the LASD's investigative process, and lead to the consensual resolution of most disputes, therefore reducing the number of lawsuits and the amount of exposure therefrom.

## 10. Citizen Advisory Committees

*On July 16, 1993, shortly after 10 o'clock at night, a 21-year-old African-American man was shot by Sheriff's deputies in the unincorporated area of Monrovia in the San Gabriel Valley. The shooting occurred after a traffic stop by two deputies of the man, who turned out to be an unlicensed driver with one \$15,000 warrant and another no-bail warrant for possession of drugs outstanding against him. The deputies determined to arrest the man based upon the outstanding warrants. When one of the deputies went to cuff the young man, an altercation ensued. The man grabbed the deputy's gun, ran, and then turned and opened fire on the deputies. In all, he fired 14 shots, some at the deputies and others at a citizen's car that happened to be behind him. The deputy who still had his gun returned fire and struck the suspect four times.*

*Captain Robert Mirabella of the LASD's Temple Station was informed of the shooting and went immediately to the scene where he was briefed on the incident and walked through the scene. While enroute to the scene of the shooting, Captain Mirabella called and left a message for Pastor Don Williams of the nearby Family Church, who was a member of Mirabella's Chaplain's Advisory Panel, one of the station's advisory groups, advising Williams that there had been a shooting not far from his church. When the Pastor received the message after a prayer meeting, he went to the scene of the shooting.*

*Pastor Williams stated that a large crowd had gathered at the scene and that the mood of the crowd was angry. Accordingly to Williams, everyone in the crowd had a different version of what had happened. There were those who said the youth had been bound, tied, gagged, and shot in the head; others claimed he had been shot in the back while running away. "Since the incident occurred eight blocks from my church, a lot of people were asking me questions," Williams said. "Is he dead? Is the body still there? Is he lying on the ground? Was he cuffed when he was shot? Was a white deputy trying to kill a black youth?"*

*Pastor Williams was joined by David Hall, chairman of the area's Town Council and President of the Monrovia-Arcadia-Duarte branch of the NAACP, and Richard Brown, another Town Council member, both of whom were also members of a forerunner to Temple Station's citizen advisory groups. The three men made their presence known to officers and asked that the captain be told they were on the scene.*

*Upon being informed of the presence of Williams, Hall, and Brown in the crowd, Captain Mirabella told his sergeant to bring them to him behind police lines.*

*"The investigators weren't pleased," Williams said. "They were concerned about the crime scene. But the captain felt the community needed to get some answers from someone in the community and told them he must show us the scene."*

*Captain Mirabella walked Hall, Williams and Brown throughout the crime scene, explaining to them who was involved and why the stop had been made. Mirabella showed the three men the physical evidence, including where the suspect had fired the deputy's weapon.*

*"He gave us a complete outline of what happened. We could see what happened, not based on what someone told me, but based on the blood I could see, the bullet shells," Williams said. "By seeing the blood, the bullet shells . . . the evidence . . . by him briefing me, seeing it myself, it gave me the confidence that I could relate to people what had actually happened. That way I could go to the people and answer their questions."*

*The three men went back into the crowd. "The evidence we saw," Hall said, "did not correspond with the stories we had heard (from the crowd).*

*We were able to tell them that the youth had left the scene in bad shape, in an ambulance. . . . It wasn't just a situation where he died there and was*

*just lying there. There was concern that he was lying there with no one doing anything to help him." The youth died that evening at 9:30 at a local hospital, 90 minutes after the shooting.*

*There also was concern in the crowd that there would not be an investigation of the incident. Hall said that his ability to tell people an investigation had already begun helped allay those concerns. Both Pastor Williams and David Hall praised Captain Mirabella. The foregoing demonstrates the value of citizen advisory groups.*

The January 4, 1993 Joint Statement between Judge Kolts and Sheriff Block states that:

*The Department is also committed to meaningful citizen involvement and participation at the station house. The Sheriff's Department supports the establishment of community conference or advisory committees composed of broadly representative local residents to provide an open, free and ongoing dialog with the top command at every station. This would be a non-adversarial environment concerning abatement of criminal activity, priorities for patrol and enforcement, advance planning, and the resolution of complaints about Sheriff's personnel for rudeness, insensitivity and such other matters as the captain of the station within his or her discretion may wish to involve the advisory committee. Such committees will be formed within the next six months at each station serving any unincorporated areas of the County. This prototype will be made available to the contract cities at the stations serving them.*

The Kolts Report advocated community advisory committees at each Sheriff's station as the foundation for community-based policing. Judge Kolts envisioned that these committees would be comprised of local residents who reflected the demographics and socio-economic strata of each service area and who held a wide spectrum of views concerning

law enforcement and how to contend with crime in their respective communities.

Community advisory committees were recommended because the police alone cannot deal with crime and its ramifications or with all the social ills which give rise to crime. To make any significant headway against crime, the community must be actively involved in a partnership with the police. These partnerships, created and nurtured at the station level, are intended to allow an open, ongoing dialog between the community and its police force concerning priorities in law enforcement, preventative crime measures, response to emergencies and forward planning, and complaints about the manner in which the police operate.

The Kolts Report envisioned that community advisory groups should be more than a vehicle for one-way communication from the station to the community, or police booster clubs, or vehicles to generate a positive image of the police. Rather, they should provide a forum for captains to hear from their outspoken critics as well as their outspoken supporters.

Under the leadership and impetus of Assistant Sheriff Ray Morris, community advisory committees (CAC) have been formed at each station serving unincorporated areas. Captains had substantial discretion to solicit and select individuals to serve on the CACs under the general rule that the CACs should include residents of the area with diverse backgrounds and views respecting law enforcement. Some captains made a point of asking community groups to choose members for the CAC. Others selected from individuals they already knew had an interest in and a commitment to the community. Although some captains chose not to advertise the CACs in newspapers, other captains widely publicized the CACs.

For example, Captain Carole Freeman of the Century Station (the newly combined Lynwood and Firestone Stations) sent out information about the CACs in a block-watch newsletter distributed to 10,000 residents. Captain Michael Quinn of the Crescenta Valley Station was initially concerned at an apathetic response in his area. He and his

staff then arranged publicity in local papers and hand-carried applications to various clubs and organizations as well as to town council meetings. At Temple Station, publicity was sought in a variety of newspapers; announcements were distributed to local businesses such as cleaners and video stores; and community groups and city and county governmental offices were notified. After receiving 18 applications, which leaned heavily toward male Caucasians, Captain Mirabella undertook additional soliciting to recruit Latino and African-American members. His efforts were successful: He wound up with thirty applications from which he formed three committees.

Captain Lee McCown, then at the Walnut Station and currently at the Inmate Reception Center, also put together a diverse group. Of the fourteen members of his CAC, eight are women, four are Latino, three are African-American and one is Asian. They range in age from thirty-two to sixty. Although Captain McCown did not have difficulty recruiting a Chinese woman to serve, he was concerned that he had no luck in interesting members of the substantial Korean community. In order to reach out to that community, Captain McCown set up a storefront office in the Korean community. He staffed the office with Korean speakers who can advise people on crime prevention and other matters.

Captains McCown and Norm Smith of Norwalk permit the CACs to operate freely. At Walnut, a week before each monthly meeting, all the CAC members are solicited for input into the agenda. Meetings are held on the second Monday of each month. Time is allotted at each meeting for questions and answers from the public. One of the CAC members from Walnut said that the captain was "adamant" that the CAC members pass on complaints they receive from the public.

At the Norwalk Station, the meetings are run by a CAC member. Captain Norm Smith puts announcements of the meetings in the local newspapers. He said that generally about thirty people from the community attend the open meetings, as does Supervisor Dana's field representative. The committee sets its own agenda. Norwalk's CAC meets twice a month on the first and third Monday. The meetings alternate between the station and a



community location.

The Department, and the Kolts Response Implementation Team in particular, are to be lauded for the difficult job of getting CACs established in all stations in a short time frame. In all, 191 persons were selected from 384 applicants at 18 different stations. We want also to point out that some stations, like the West Hollywood, Norwalk, and Temple Stations, already had similar groups in place prior to the establishment of the CACs.

It is too early to assess how the newly-formed CACs will function. At this time, the committees have just been formed and the committee members are receiving training from the Department. Over the next six months, we intend to assess whether the CACs are facilitating two-way communication, providing early warning of problems, and promoting improved relationships between law enforcement and all segments of the community. We will assess whether all segments of the community have access to the CACs or are represented on the CACs.

We have some concern that the discretion afforded to captains to form and run the CACs is too broad and will produce unacceptably disparate results in terms of the composition, openness, and procedures of the committees from station to station. It appears to us that a captain, operating within the Department's guidelines and wide discretion, could manage to exclude outspoken critics of police conduct.

Obviously, delicate lines need to be drawn. A captain need not include groups that throw down the gauntlet and issue non-negotiable demands to manage the station. That is not the kind of constructive interaction with the Sheriff's Department that Judge Kolts envisioned. On the other hand, as anyone who has ever gotten angry and scolded a loved one can attest, deeply felt criticism is not inconsistent with loyalty and trustworthiness. The Department may wish to consider guidelines for the operation of the CACs which narrow the captain's discretion and tend to assure that the CACs break down a station's insularity rather than reinforce it.

Over the next six months and beyond, we will be interested in the mechanisms that various captains devise to assure that fresh perspectives continue to be heard and that the CACs do not degenerate into sterile booster clubs or apologists for the Sheriff's Department. We are interested whether all voices are being heard, either directly through open meetings or by representatives on the CACs who articulate the concerns of those who are critical of the police. **These committees are intended to be part of an early warning system: Captains need to know directly from the community where trouble is brewing, in terms of growing crime problems, under-served parts of the community, priorities, and dissatisfaction with how the police are comporting themselves.**



## **11. Civil Service Commission**

The Kolts Report discussed the LASD's contention that the Civil Service Commission was improperly failing to sustain the Department with respect to disciplinary determinations, particularly discharges, and thus frustrated the Department's efforts to fire problem officers. We also discussed the contention of lawyers who defend discharged deputies that the reason the Department was losing was because it did not have the evidence to back up its charges. At the time, Judge Kolts noted that there was an insufficient track record to pass judgment on the controversy.

During the course of our review this year, we collected information about the results in 1992 and 1993 before the Civil Service Commission. The results, with our footnoted caveats and qualifications, are reproduced at Table 3. The sample remains very small, and thus it would be irresponsible to read much into the numbers alone. We draw no definitive conclusions, and we do not believe the numbers alone lead to a conclusion that the Civil Service Commission is not properly doing its job or that the Department is poorly represented or that the Department is not bringing appropriate discharge actions.

Because of the importance to the Department that its decisions to discharge be validated, we strongly encourage the Sheriff's Department to undertake a serious assessment of why the Department is not having greater success in its attempts to discharge for misuse of force.

In the Kolts Report, we stated that any consideration of these issues would be myopic if it did not take into account that there will be a vigorous contest over discharges by counsel for the disciplined officers. The media attention to police misconduct, the demands for greater discipline, and the opportunities before the Civil Service Commission to overturn the Department are all likely to result in a redoubling of effort to defend officers by their lawyers and their labor unions.

The portion of the Kolts Report concerning conflicts and disincentives discussed possible reasons why representation of the Sheriff's Department in disciplinary cases by the same lawyers that represent the County in liability matters may not be best. If the Sheriff's Department wants to gain headway in its contentions that the Civil Service Commission

is inappropriately failing to sustain the Department, the LASD must leave no doubt that the quality of its investigation and the advocacy on its behalf is beyond reproach. Especially where important discharge cases are involved, and where the Department's credibility is at stake, County Counsel should encourage the Department to have at its disposal the LASD's own choice of experienced specialists in labor law and trial counsel to help shape, prepare, and strategize with respect to a case. At the very minimum, the Department should engage independent labor law and trial experts to look retrospectively at the discharge cases that have failed before the Commission for an unbiased, careful assessment of case selection, investigation, litigation strategy, and trial tactics.

3

**1992 & 1993 LASD Employee Civil Service Commission Appeals**

Basis of Discipline <sup>1</sup>	All Appeals <sup>2</sup> of LASD Discipline	Final Resolutions of LASD Discharges <sup>3</sup>	
		LASD Discharge Actions	Commission Reversals <sup>4</sup>
Total	110 100%	57	21 36%
Force Related	31 28%	17	9 53%
Fraternization	16 15%	12	1 8%
Performance <sup>5</sup>	12 11%	8	4 50%
Off-Duty Conduct	10 9%	5	0 0%
Exam Appeals	9 8%	n/a <sup>6</sup>	2 of 9 22%
False Reporting	5 5%	4	3 75%
Theft	5 5%	4	3 75%
Sexual Harassment	5 5%	4	0 0%
Miscellaneous	17 16%	3	1 33%

1. While there is potentially some cross-over between categories, this summary characterizes matters on one basis of discipline. For example, some disciplinary actions based on off-duty conduct related to use of force or theft.
2. The number and percentage relate to all disciplinary actions -- exam appeals, suspensions over five days and discharges -- appealed to the Civil Service Commission in 1992 and 1993. These figures include pending actions that are either awaiting hearing or Commission consideration of Hearing Officer recommendations.
3. The right two columns look only at discharge actions for which the Commission has made final or proposed findings.
4. Actions include proposed Commission findings, which could conceivably be changed. Actions where the Commission reduced discharges to suspensions are counted as reversals. Actions "settled" based on a deputy's forced resignation are counted as sustained. Where the result of "settled" is unclear, the case is not counted.
5. Most "performance" disciplinary actions relate to non-deputy employees.
6. "Discharge" is not applicable in the case of exam appeals

## 12. Conclusion

The Sheriff's Department has made significant progress in the last year on the road to implementation of many of the Kolts recommendations. We are guardedly optimistic that the Sheriff's Department is making headway in an effort to deal with unwarranted and gratuitous force. This is a complex undertaking. The problem has to be attacked from many different angles, both from inside and outside the Department. By implementing many of the recommendations, the Sheriff's Department is putting in motion different forces and programs to chip away at the problem. We hope this Report gives an accurate picture of the Department today and conveys our sense that the Department deserves, in LASD parlance, an "atta boy." The Board of Supervisors, under the chairmanship of Ed Edelman, has given Special Counsel and staff six opportunities over the next three years to assess the LASD's progress toward meeting the Board's mandate that the Sheriff's Department implement the Kolts recommendations. This is our first report, and we will continue auditing, monitoring, assessing the Department's advances, and reporting the setbacks. But that is not enough.

The most critical element for success is continued public interest in and attention to unwarranted force and implementation of the reforms. The media, the Board of Supervisors, community groups, and local governmental officials must remain vigilant. Reporters have to stay on this beat. Too many commissions have worked too many years on police misconduct, only to have their recommendations left unfulfilled and the problems allowed to fester. We need only cite the McCone Commission which predated the Christopher Commission on the LAPD or the Knapp Commission which predated the current Mullen Commission on the NYPD.

**We do not want our work to end up the same way. With this Sheriff's Department, there is a chance that things can work out differently if there is continuing vigilance and watchfulness. As deeply as we believe in the importance of better relationships between the LASD and the increasingly diverse community it serves in Los Angeles County, and as much faith as we have in the earnestness**

**and good will of many within the Sheriff's Department, we cannot stress enough the seriousness of the problems that gave rise to the Kolts Report and the substantial difficulty of implementing the recommendations. They are not interstitial adjustments or minor tinkering with an already smooth running machine; its not like giving a BMW a tune-up. It will require terribly hard work by the Department, a great deal of money from the County, and patience and restraint on behalf of the public.**

Cynics and burnt-out people within the Department, who thrive on trashing the courts, the criminal justice system, police critics, plaintiff's lawyers, the "low life" on the streets, the Blacks, the Latinos, the gays, or their fellow officers in the LASD who cannot stand the abusive swaggering, must not be allowed to hold sway. Cynics and burnt-out people on the streets, who taunt the cops, threaten to kill a cop a day, throw bottles and shoot guns at police cars, and spew venom and filth at the policemen and policewomen who are thrown into the breach and are told to stop crime, must not be allowed to hold sway. Ignorant armies clash by night. Its not easy to undo, but we think there's a chance it can be undone in Los Angeles County with vigilance, resolve, and money.

*Merrick J. Bobb*

Special Counsel