

*The Los Angeles County*

# **Sheriff's Department**

**4th Semiannual Report by**

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

**June 1995**



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# 1. Introduction

This is the **Fourth Semiannual Report** of Special Counsel Merrick Bobb and staff on the progress of the Sheriff's Department in the implementation of the **Koits** recommendations. In general, this **Report** is an encouraging one, although we have concerns about the potentially negative impact of the County's budget crisis on the Department. We begin this **Report** with some descriptions of the progress that has been made.

As detailed in the chapter on Litigation, there continues to be substantial progress in reducing the number of excessive force cases and the risk from them to the County. Since the end of fiscal year 1991-92, there has been a 63 percent decline in the number of force-related lawsuits. The County's exposure on force cases has dropped by more than 50 percent since its all-time high at the time of the **Koits Report**. There were almost twice as many alleged force incidents giving rise to lawsuits in the two and one-half years preceding the **Koits Report** as there have been in the two and one-half years following the **Koits Report**. Costs incurred by the County for adverse verdicts, settlements, and attorneys' fees in force-related cases have also declined since **Koits**.

Our chapter on Department-initiated investigations of force incidents also provides good news. We reviewed in detail each of approximately 300 Departmental investigatory files completed in the three years since the **Koits Report**. Based upon the conduct under investigation, it appears, with some notable exceptions, that the nature of the asserted excessive force is less severe than it was prior to the **Koits Report**. There are:

- substantially fewer investigations involving allegations of multiple uses of force or outright beatings;
- many fewer investigations involving force inflicted with impact weapons like flashlights and batons; and
- fewer cases in which excessive force allegations are deemed "unfounded" or "unresolved" despite substantial evidence of misconduct and fewer "unfounded" and "unresolved" cases where the physical evidence contradicts the officer's version of events.

<b>Deputy Involved Shooting Incidents*</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995**</b>
Number of Shooting Incidents**	56	47	29	29	14
Number of Deputies Wounded	10	6	4	3	0
Number of Deputies Killed	0	2	0	0	1
Number of Citizens/Suspect Wounded	40	31	12	11	10
Number of Citizens/Suspects Killed	23	18	22	18	4
* Incidents during which an LASD officer intentionally fired at and hit a citizen/suspect					
** Through May 31, 1995					
<b>Non-Hit Shooting Incidents*</b>		<b>Aug./Dec. 1993</b>	<b>1994</b>	<b>1995**</b>	
		14	23	13	
* Incidents during which an LASD officer intentionally fired at a citizen/suspect but missed					
** Through May 31, 1995					
<b>Incidents Requiring PTSD Rollouts</b>		<b>Aug./Dec. 1993</b>	<b>1994</b>	<b>1995**</b>	
		45	107	45	
** Through May 31, 1995					

In the chapter on Command Accountability and Evaluation, we describe the Department's revised policy statements on accountability of command personnel as a model for every police agency in the country. There are detailed, affirmative duties for command personnel to act, to ensure results, to be proactive and vigilant, to minimize risk to the County, and to identify and take corrective action where needed. Each individual from the rank of captain on up is responsible and accountable for use of information about subordinate personnel to anticipate risks and recognize the warning signs of potential liability. These standards are being followed up in draft Management Evaluation forms which describe in detail the Department's expectations and grade managers and executives accordingly.

In the chapter on Recruiting and Hiring, we note that the demographics of the last five Academy classes are encouraging. Latinos make up 33.8 percent of these classes and African-Americans make up 11.5 percent. We also describe excellent programs within the Department to eliminate bias and prejudice and provide training in avoidance of sexual harassment.

With one tragic exception, there have been no officers killed in the last two and one-half years, and the number wounded has dropped from 10 in 1991 to none for the first five months of 1995. We are also pleased that the number of shooting incidents has dropped considerably since 1991, as has the number of citizens killed or wounded by the LASD.

We also report our disappointments. In our chapter on Force Investigations and Discipline, we note that we continue to find too many cases involving unnecessary force in response to verbal taunts or passive noncompliance. Most of these incidents arise in the jails, where we found a substantial number of instances where deputies appear to overreact to apparently slight provocations by pushing the inmate against the wall or slapping him in the face. The only area where there are more excessive force lawsuits after **Koits** than before is in the jails — custodial assault and battery lawsuits are up. We intend to study whether implementation of **Koits** in the jails lags behind implementation in the patrol stations.

Additionally, we are disappointed to report that the Department remains too lenient in the way it disciplines officers who have been found to have used unreasonable force. Moreover, in far too many cases, discipline is reduced in settlement negotiations during the grievance process.

Our chapter on the Status of Women in the Department demonstrates that the number of women in the Sheriff's Department continue to lag behind national averages. According to the United States Bureau of Labor Statistics, women comprise nearly 20 percent of all sheriffs and bailiffs personnel nationally and over 16 percent of all police officers and detectives nationally. The LASD has 13 percent. The Department has its work cut out to catch up with national averages. There are coveted positions within the LASD—like the Special Enforcement Bureau — in which there are still no women whatsoever.

There are also areas in which we continue to reserve judgment. In our last Report, we stated that "we have yet to see the wave of reform and critical thought

that is transforming PSTD and is beginning to impact the patrol side of the Sheriff's operations reach the custody side." We noted that morale problems among deputies in custody were mounting. We said that how "the lives of deputies are being impacted by years and years in the jail deserves close study." We commented on our concern about "the attrition rate for deputies who leave the Department after expensive training to join another police department because the custody rotation is seemingly endless."

In the last six months, our concern about the jails has deepened, and the length of time young deputies spend in custody rotations continues to grow. Instead of shrinking to the year or two the Department stated was its goal in 1992, it is now often five years. The current budget crisis exacerbates this problem. We stated last time that the "entire custody side of the Sheriff's operations merits increasing scrutiny and reform." We have not seen much in the last six months. It may be time for the Department to take radical steps in this regard.

We also reserve judgment as to whether progress is being made in reducing dog bites. The LASD's "bite ratio" — percentage of apprehensions involving dogs where there is a bite — has been static for the last three years.

We additionally reserve our judgment with respect to the proper allocation of responsibilities between the District Attorney's Office, the Homicide Bureau, and the Professional Standards and Training Division for officer-involved shootings. We want quickly to point out progress by the District Attorney's office under DA Gil Garcetti: generally, the DA has substantially speeded up his review of cases involving LASD personnel. There has also been progress with respect to the speed of review of some officer-involved shootings and other serious cases. Many more cases are being decided in 90 days or less, although there are exceptions. These exceptions continue to concern us because it can mean that Departmental discipline for misconduct can be substantially delayed.

Out of deference to the DA and the criminal process, the Department does not complete administrative investigations during the pendency of the DA's review. The Department currently continues to defer to the DA's wishes that involved officers not be interviewed by Internal Affairs until the DA has decided whether or not to proceed with a criminal prosecution. Because it is very rare that the DA will determine that the facts merit a prosecution in force-related cases, there is prejudice to speedy administrative proceedings when the DA's office takes a long time to review cases. We continue to consider whether it might not be best for the Department to move forward with administrative proceedings and interview the officer if the DA is unable to make a decision on criminal prosecution within 90 days.

We also continue to consider whether, in light of the rarity of prosecution in excessive force cases, the current division of responsibilities for officer-involved shootings as between the Homicide Bureau and the Professional Standards and Training Division makes sense.

In our last Report, we were perceived as somewhat critical of the work of the Homicide Bureau in some given cases. Although we did not purport to reach conclusions about the handling of any specific case, we did wonder aloud whether certain investigations undertaken by the Bureau were as competently and professionally handled as investigations by other units.

Since then, we have had the opportunity to explain our concerns to four Chiefs, including meetings and discussions with the present and former Chiefs of the Detective Division, of which the Homicide Bureau is a part. We have also had candid and open talks with Dan Burt, the new Captain of the Homicide Bureau. He urges the creation of a new, special Officer-Involved Shooting team made up of specially trained investigators. It is a fact of life that such investigations are emotionally draining and require scrupulous judgment and meticulous and exhaustive detective work. It is not a job for every homicide investigator. We therefore support Dan Burt's ideas and hope they are given a



try, and in the interim, we will continue to reserve judgment about the proper allocation of responsibility for officer-involved shootings as between the Homicide Bureau and the Professional Standards and Training Division.

We reserve judgment about why the computerized tracking system that is at the heart of the Department's risk management efforts is still not in place. We are convinced that the Sheriff is doing what he should; we have less confidence that the contractor is doing the same.

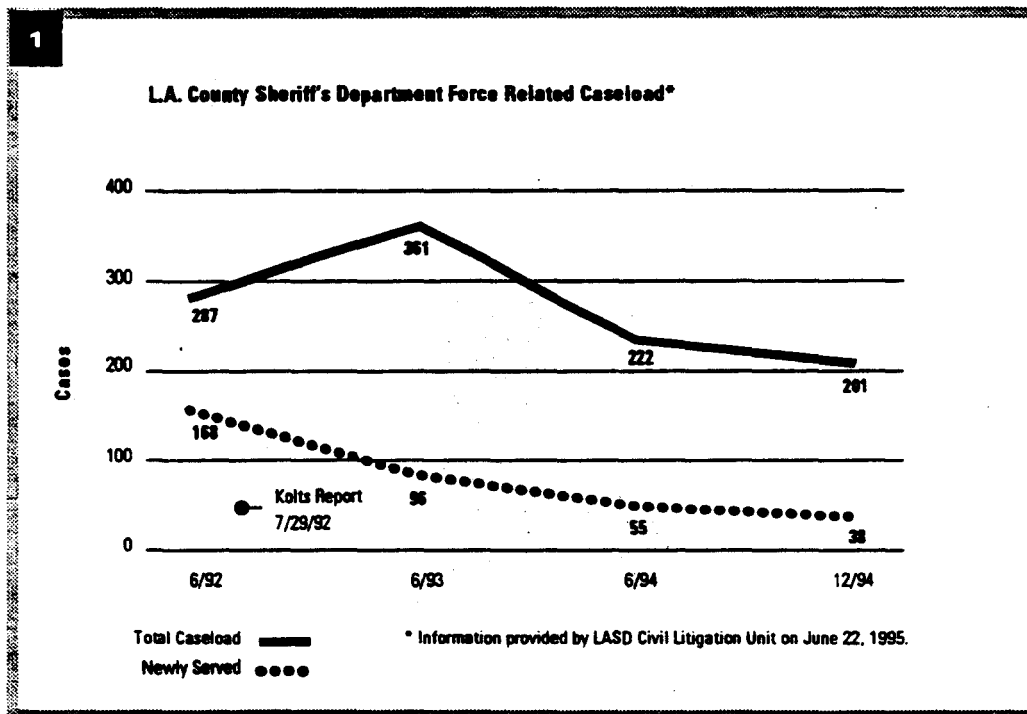
Finally, there are a couple of events which took place within the last six months that we want to emphasize for very different reasons. The first is the death of Deputy Stephen Blair, who was hit by gunfire on May 12, 1995 while investigating gang activity. This is the first death of an officer in the line of duty since our appointment as Special Counsel in 1993. We said in our last Report that we regard the deputies in the LASD with special care — those who put their lives at risk, those who have been injured, and all of those who face different dangers.

We also want to point out and acknowledge with approbation that Sherman Block has recently taken some special steps which underscored his respect for all of his employees, regardless of race, gender, sexual orientation, or ethnicity. We also would like to acknowledge other special steps he has taken to show his attentiveness and responsiveness to the special needs of the communities his Department serves. We are aware of several instances in which the Department, for the first time to our knowledge, permitted communities to select their captain from several Department candidates. The Sheriff then appointed the individual whom the community believed would best serve. Many cities have a choice of police departments — they can contract with the Sheriff's Department, start their own police department, or contract with another police agency. With the steps the Sheriff has taken to respond to the concerns of these cities, the LASD should be in an even stronger position to keep current contracts and garner new ones.

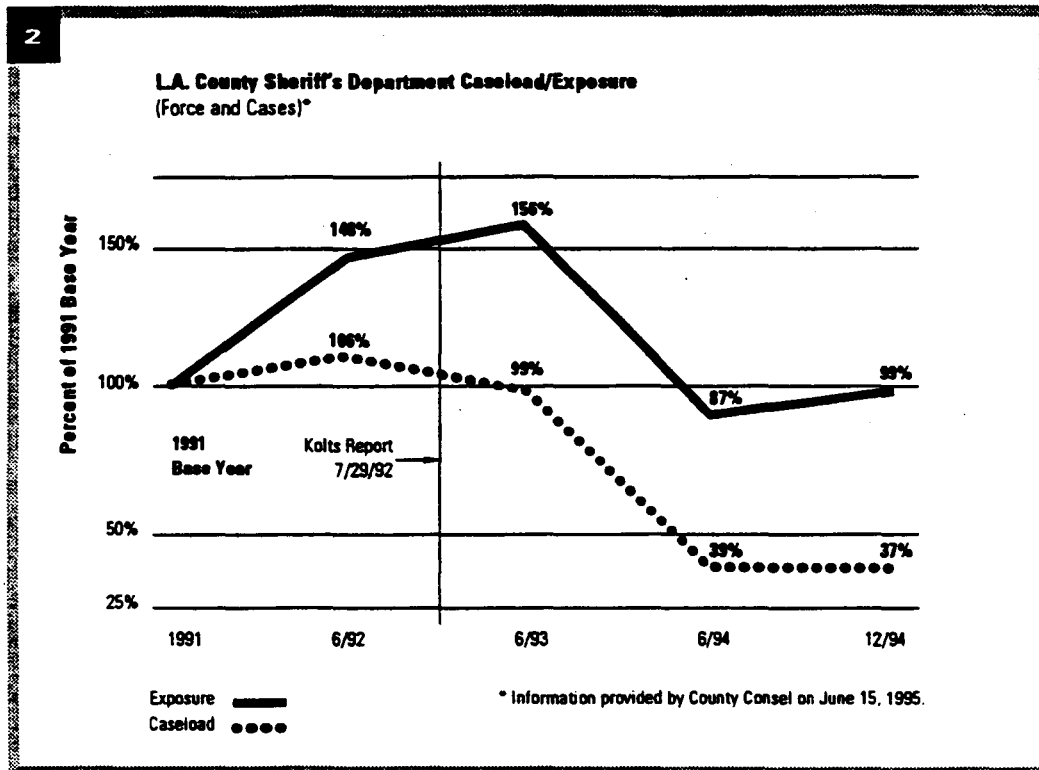
## 2. Litigation

Our review of excessive force litigation against the Department convinces us that substantial progress continues to be made in reducing the caseload and risk to the County of Los Angeles. As we noted in our last Semiannual Report, the efficacy and success of the Kolts recommendations can be most clearly seen in the consistent drop in the number of new lawsuits, the continuing shrinkage of the County caseload of excessive force lawsuits against the LASD, and in the declines in judgments, settlements, attorneys' fees and costs to the County from these cases.

These positive trends continue, especially with regard to the declining total caseload. During the first six months of this fiscal year, July 1 through December 31, 1994, the County was served with a total of 38 force-related lawsuits, of which 7 have since been closed-out.



There were 361 force-related lawsuits pending as of the peak fiscal year ending June 1993. The total caseload of force-related lawsuits declined to 222 as of the year ending June 1994. The total case load of force-related lawsuits is down to 201 as of December 31, 1994.



There has been a 63 percent decline in the total caseload of force-related lawsuits since the base year ending June 30, 1991, according to County Counsel's data.

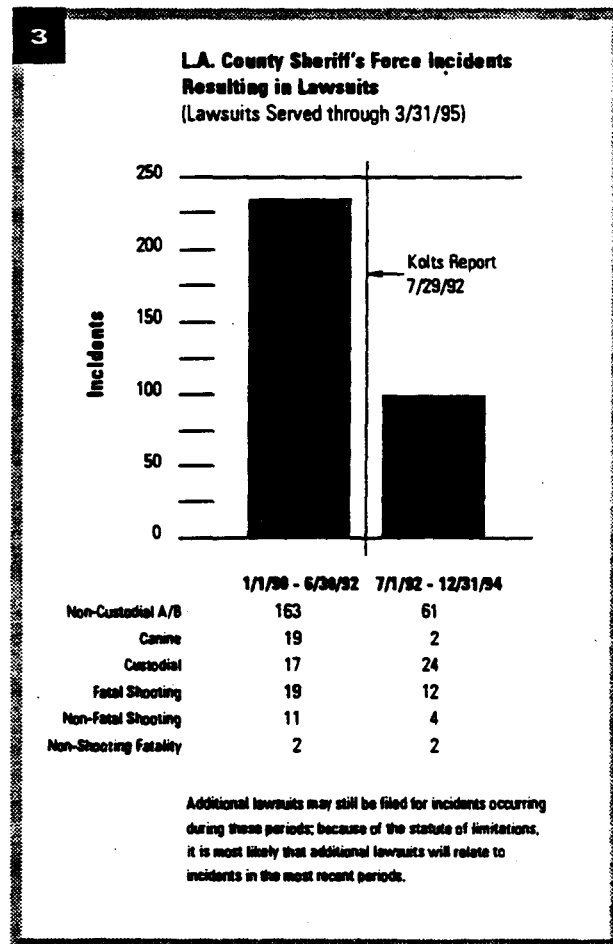
The total monetary exposure of the County for force-related cases as of December 31, 1994 is also lower than the base year ending June 30, 1991, if only slightly so, but it remains well below the County's total exposure at the end of each of the fiscal years 1991-92 and 1992-93. The County's total exposure in force-related cases during those years, respectively, were 48 percent and 56 percent higher than the 1991 base year.

As we did in our last audit, we again reviewed lawsuits served through March 31, 1995 to compare the number of lawsuits which arose from incidents that took place during the two and one-half years before the **Kolts Report** (January 1990 - June 1992) with those that arose from incidents that took place in the two and one-half years after the **Kolts Report** (July 1992 - December 1994). Table 3. This comparison must be qualified because the statute of limitations has not run and more lawsuits arising from incidents in

the recent past are likely to be filed in the future. The data suggest, however, that the positive trends noted in our last report continue.

There were almost twice as many alleged force incidents giving rise to lawsuits in the two and one-half years preceding the **Kolts Report** as there were in the two and one-half years following **Kolts**. The comparisons are especially instructive with incidents involving canine bites and alleged non-custodial assaults: 19 canine incidents led to lawsuits before **Kolts**, while two canine incidents led to lawsuits following **Kolts**; and 163 non-custodial assaults led to lawsuits before **Kolts**, while 61 non-custodial assaults resulted in lawsuits following **Kolts**. On the other hand, lawsuits arising out of custodial assaults are up.

Costs incurred by the County for adverse verdicts, settlements, attorneys' fees, and costs in force-related lawsuits are also declining. For the first half of this fiscal year, July 1 through December 31, 1994, County Counsel reports that the County paid out \$1,367,616 in settlements and adverse verdicts. At the same time, the County paid out \$1,473,964 in defense fees and costs. Table 4. On an annualized basis, these sums would represent a significant improvement over the total amounts paid by the County for settlements, verdicts and attorney's fees, and costs for the fiscal year ending June 30, 1994. As of the date of this **Report**, statistics are not available for all of fiscal 1994-95. We hope that they will



**LASD Litigation Activity, Fiscal Year 1992-93 and Fiscal Year 1993-94**

	FY 92-93		FY 93-94		July 1-Dec 31, 1994	
<b>New Force Related Suits Served<sup>1</sup></b>	86		55		38	
<b>Total Docket of Excessive Force Suits</b>	361		222		210	
<b>Lawsuits Terminated</b>						
Lawsuits Dismissed	79		90		33	
Verdicts Won	22		9		4	
<b>Verdicts Against LASD</b>						
\$1-\$20,000	0	\$0	4	\$34,500	0	0
\$20,000+	3	\$122,983	3	\$830,000	1	\$38,416
Subtotal	3	\$122,983	7	\$864,500	1	\$38,416
<b>Settlements</b>						
\$1-\$20,000	42	\$304,450	44	\$449,800	14	\$123,700
\$20,000+	28	\$3,191,700	37	\$4,892,650	10	\$1,205,500
Subtotal	70	\$3,496,150	81	\$5,342,450	24	\$1,329,200
<b>Total Verdicts and Settlements</b>	73	\$3,619,133	88	\$6,206,950	25	\$1,367,616
<b>Defense Costs<sup>2</sup></b>		\$5,078,282		\$4,684,732		\$1,473,964

<sup>1</sup> The LASD and County Counsel changed their definition of "force related" litigation in early 1994.

<sup>2</sup> Includes outside counsel and County Counsel fees and costs.

bear out the trend suggested by the mid-year figures.

We are encouraged by the overall trends seen, with declines registered in the total number of force-related cases served, and in the concomitant decline in the amounts paid by the County in settlements, verdicts and defense costs.

On the other hand, we have some concern about the small increase (12 percent) in the first half of this year in the County's estimate of its total monetary exposure in the force-related lawsuits over the total registered last year. This is a difficult number to interpret for a number of reasons: (i) it is only an estimate; (ii) it changes quarterly when the underlying caseload is re-evaluated based upon new developments, and we have noted multimillion dollar swings in particular cases from quarter to quarter; (iii) it is not easy to separate out pre-Kolts from post-Kolts cases to judge whether the exposure has risen because of re-evaluation of older cases or newer ones; and (iv) the Department itself does not appear to have a great deal of input into the process of estimate exposure.

Our qualitative review of post-Kolts and newly-served lawsuits would suggest that for this group of cases, exposure should be declining. With a few exceptions, the alleged conduct is not as worrisome or egregious as in the pre-Kolts cases. We will, of course, continue to monitor these areas very carefully in that they constitute the best measure — and, to date, the strongest proof— of the efficacy and success of the Kolts recommendations.

We continue to be troubled by the imperfect coordination between County Counsel and the Department, and at times we share the Department's frustration about getting timely and reliable information about cases. A client deserves timely, accurate, and complete information from his lawyer. A client should have some say about how the case is evaluated and litigated. A client is always entitled to review legal bills and to ask for as much detail and justification for expenditures as is reasonably necessary to satisfy the client's needs. By the same token, a client needs to be thorough, complete, and forthcoming with his lawyer. If his own files and records are in chaos, the client cannot fairly blame the lawyer for unhappy results. If the client has responsibility in the first instance for investigating a claim, the client must adequately memorialize the facts and record the names and statements of all known witnesses. We think County Counsel and the Department could benefit from more communication on these issues.

We also think it would be extremely useful if County Counsel and the Department could use the same systems to count cases. Each time we have done our **Semiannual Report**, numbers which we had been assured were accurate have turned out to be subject to later revision. The numbers from County Counsel are hard to square with the numbers from the Department. It appears that both of these entities cannot even accurately count the same modest number of cases and come to a consistent figure. At times, there are incomprehensibly wide swings of numbers. Our frustrations may be trivial in the scheme of things; but the County of Los Angeles and its Board of Supervisors must have accurate and reliable information. To the extent that we are a conduit of at least some of that

information, we must insist that the Department and the County Counsel give us accurate and consistent figures.

We have long advocated a greater role by the Department in the conduct of litigation against it. We think that the Department should benefit monetarily from the success of its efforts to reduce the litigation against it and, by the same token, we believe it should be penalized monetarily if it is causing the exposure of the County and its taxpayers to rise. We continue to believe that the Department is afforded less of a role in litigation than it should have.

The implementation of the **Kolts** recommendations by the Department, although incomplete, has already saved the County of Los Angeles tens of millions of dollars in exposure. The essence of the **Kolts** recommendations was to reduce excess force and its social and monetary costs by the intelligent management of risk. The Department continues to show itself to be responsive and responsible to **Kolts** implementation, most notably within the Professional Standards and Training Division and at the level of the Sheriff, Undersheriff, and Assistant Sheriff.

The job of implementing the **Kolts** recommendations is underway. It is far from complete. Despite this, the implementation of the **Kolts** recommendations is already paying off handsomely in terms of the human dignity and integrity that has been preserved and the taxpayer dollars that have not had to be expended. The County should reward the Department for these efforts.

### **3. Force Investigation & Discipline**

The **Kolts Report** considered whether the LASD, like other police departments, tended at times to tip the scales in favor of their own officers when investigating and adjudicating complaints of excessive force. Judge Kolts and his staff found that of 527 excessive force allegations investigated during the two and one-half years prior to the **Kolts Report**, the LASD sustained 49, or 9.3 percent. Although the Department sustained 27 percent of LASD-generated allegations, it sustained only 6 percent of citizen-generated allegations. That there might be a higher number of spurious or unresolvable complaints made by citizens than by LASD officers is not in itself surprising. Judge Kolts and his staff nonetheless decided that further inquiry was warranted because of the size of the disparity and the suspiciously small percentage of citizen's allegations that were sustained.

To that end, Judge Kolts and his staff followed up the statistical analysis by reviewing nearly 1,000 investigative files to test the thoroughness, fairness, and integrity of the investigations. We found problems of pro-deputy bias, sloppiness, and incompleteness with a substantial number of investigations, particularly when conducted at the level of the station or unit, as contrasted to the Internal Affairs Bureau, or IAB, and the Internal Criminal Investigations Bureau, or ICIB. We then were curious about whether the Department imposed appropriate discipline in those few instances where it sustained an allegation that the officer had indeed used excessive force. We were disturbed to find that in many instances those officers received only token discipline at best.

During the last three years, we have tested whether the efforts to implement the **Kolts recommendations** have altered how the Department handles complaints of excessive force. We are happy to report that progress has been made. As **Table 1** demonstrates, in the last two and one-half years, the Department sustained 18.4 percent of complaints of excessive force — nearly a 100 percent increase from before **Kolts**. Citizen-generated complaints were sustained 9.8 percent of the time



**Disposition of Investigations For Force-Related Misconduct<sup>1</sup>, January 1, 1993 - May 1, 1995**  
(Excluding Pending Cases)

	<b>Citizen Complaints</b>	<b>LASD Complaints</b>	<b>Outside Agency Complaints</b>	<b>Total</b>
Total Officers Investigated	184	200	1	385
Allegations Founded	18 (9.8%)	53 (26.5%)	0 (0%)	71 (18.4%)
Allegations Unresolved <sup>2</sup>	82 (44.0%)	54 (27.0%)	1 (100%)	137 (35.6%)
Allegations Unfounded <sup>3</sup>	72 (39.1%)	74 (37.0%)	0 (0%)	146 (38.0%)
File Closed/Other <sup>4</sup>	12 (7.1%)	19 (10.0%)	0 (0%)	31 (8.0%)

<sup>1</sup> "Force-related misconduct" includes violations of the following LASD policies: (1) Use of Force; (2) Assault Under Color of Authority; (3) Use of Force/Canine; (4) Unnecessary Force; (5) Unreasonable Force; (6) Failure to Report Use of Force; (7) Use of Firearms; and (8) Use of Firearms/Shots Fired.

<sup>2</sup> Officers who have no Founded force allegations and at least one Unsubstantiated force allegation.

<sup>3</sup> Officers who have no Founded force allegations and at least one Unfounded force allegation. Note: some officers investigated for one incident may have some allegations deemed Unfounded and others deemed Unsubstantiated.

<sup>4</sup> "Other" refers to other changes in circumstances, such as officer deaths, retirements, or resignations before discharge.

Incidentally, we have not found any misuses of the "Closed" designation which we found in the Kolts Report.

— an increase of more than 63 percent. The percentage of Department-generated force complaints that were sustained remained nearly the same. The LASD is analyzing citizen's complaints more objectively. This conclusion is reinforced by our analysis of investigative files.

### *Overall Impressions about Officers' Use of Force*

We reviewed in detail each of approximately 300 Departmental investigatory files which were completed in the three years since the Kolts Report from July 1992 through May 1995. Based upon the conduct alleged in these investigations, it appears, with some notable exceptions, that the nature of the asserted excessive force is less brutal than the allegations we reviewed for the Kolts Report. In particular, we perceive that:

- Substantially fewer investigations involve allegations of multiple uses of force or outright beatings;
- Many fewer investigations involved allegations of force inflicted with impact

weapons like flashlights and batons; and

- Many more investigations contained credible admissions by complainants that they had initiated the violent encounter with the officers or had attempted to escape.

On the other hand, we continued to find too many cases involving unnecessary force in response to verbal taunts or passive noncompliance. Most of these incidents arose in the jails, where we found a substantial number of instances where deputies appear to over-react to apparently slight provocations, like stepping out of the chow line, by shoving the inmate against the wall or slapping him in the face. It formerly was the case that in both patrol and custody settings, an officer would at times resort to a transparently phoney pretext ("the suspect stared at me aggressively") to justify or excuse unnecessary or excessive force. Although the use of such pretexts has abated on the patrol side, it is still practiced to an uncomfortable and unacceptable degree in the custody setting.

We also want to make a caveat: In our Third Semiannual Report, we looked carefully at how three different stations decided whether to investigate force allegations, and we found inconsistencies. If a citizen came into the station and stated that he wished to file a complaint of excessive force, the officer on duty generally took the complaint and it was investigated. On the other hand, if the citizen voiced a complaint of pain or excessive force during his arrest or booking, the matter would likely be reported and investigated under the Department's "use of force" procedures, but it would not be treated as a citizen's complaint as such. Because our analysis of formal investigatory files focused only on instances where the Department chose to open an investigation, our statistics may not reflect instances where we might have made a judgment that a complaint of pain or force merited treatment as a citizen's complaint or merited a formal investigation. As a result, we cannot say with absolute confidence that the LASD is conducting full investigations of all incidents which deserve such scrutiny.

## *Integrity Of Excessive Force Investigations*

In the **Koits Report** we stated that although "we found many good and some superb investigations," especially among those conducted by IAB and ICIB, we also found that "many others were cursory and some appeared designed to exonerate the charged officer." We then listed the recurrent problems we discovered in our file review.

In the last three years, we have seen considerable improvement in the quality of the investigations, although unit-level investigations still lag far behind those conducted by IAB. We were disappointed to still come across IAB investigations in which obvious leads were not pursued, or in which crucial evidence was not presented. We now describe a couple of these deficient files. Our citation of bad examples should be taken in context. Most of the investigations were of excellent quality. We cite the exceptions neither to embarrass the Department nor to suggest that they are representative of all investigations. Rather, they should be seen as reflective of the candor of our dialogue with the LASD.

- An altercation between seven custody deputies and a large, muscular inmate, who suffered kidney damage, took place in plain view of approximately 60 inmates. The investigative file included only two eyewitness statements by inmates, both of whom tended to exculpate the deputies, and failed to explain why other interviews were not conducted. If we were the lawyers defending the Department in a lawsuit arising from the incident, we would be exasperated because there are potentially 58 witnesses about whom we know nothing. We would not know if their testimony would be helpful or harmful. We probably could not even find them now, although the plaintiff may very well have kept in contact and be in a position to use some of them at trial. We would also be worried about the appearance of a cover-up because only exculpatory testimony was recorded.
- Two deputies pursued an armed suspect on foot. One deputy shot and killed the suspect, claiming that the suspect had pointed a gun toward him and his partner. Homicide

investigators found the gun 37 feet away from where the suspect fell. The deputy claimed that the suspect pivoted and threw the gun after he had been shot. Three evidentiary facts seemed inconsistent, however, with the deputy's story: First, the suspect was shot in the back, from which it might be inferred that the suspect was not pointing his gun at the deputy at the moment he was shot. Second, the bullet entered the suspect's spinal column, which generally produces instant paralysis from the neck down, thereby casting doubt that the suspect could have pivoted and thrown the gun over 10 yards *after* being shot. Third, the position of the gun (its barrel was parallel to a building wall) suggested that the gun had been concealed by the suspect and not thrown 37 feet. Although the IAB summary of the incident discussed the officers' version of the story in great detail, it failed to deal satisfactorily with the possibly inconsistent evidentiary facts described above. Indeed, the IAB summary did not mention the important fact that the suspect had been struck from behind.

- In other investigations, there were inconsistencies between statements on audiotape and written summaries of those statements prepared by the IAB investigator. Lawyers for deputies in Civil Service proceedings use these inconsistencies in attempts to embarrass and discredit the Department. As we stated in the **Kolts Report** and have repeated in the **Semiannual Reports**, we strongly favor making transcripts of key interviews, particularly those of officers under investigation.
- Many synopses of incidents in investigatory files summarize the involved deputy's account of the incident and fail to point out where facts are in dispute. For example, one synopsis stated: "Deputies [A], [B] and [C] joined in the struggle to subdue and handcuff the struggling inmate. . . . During the struggle, the inmate struck his face on the floor at least twice, causing his nose to bleed." The summary is not helpful because it failed to give the inmate's different version of events, whether credible or not. The summary therefore does not give those who review the file adequate warning that the

events are disputed. Department executives may thus not be alerted to the need to make sure that all the necessary evidentiary material has been gathered to defend the Department if there are subsequent proceedings.

The concern expressed in the last example may be ameliorated by an experiment in progress designed to ensure that the decision-maker has a better grasp of all of the facts when deciding whether to sustain a complaint of excessive force. Instead of a summary, IAB in certain serious cases is now providing a worksheet spelling out the possible policy violations and citing evidence which tends to support or negate a violation. The Department began its experiment with this new approach in the fall of 1994. In future audits, we hope to be able to judge its effectiveness.

We are disappointed to report that unit-level investigations, although improved, are still decidedly inferior in quality to those conducted by IAB. Of the formal investigations we reviewed, the majority were performed by watch commanders at individual stations — what we call unit investigations — rather than by the Internal Affairs Bureau. IAB lacks the resources to perform the majority of investigations. Thus, it is important that unit-level investigations be brought to the same quality standard as IAB investigations.

At the time of the **Kolts Report**, we considered at length whether to recommend that all serious investigations, including all excessive force investigations, be performed by IAB. Based upon the patent inferiority of unit-level investigations, Judge Kolts recommended that IAB “should have sole authority” to conduct investigations of excessive force; citizen’s complaints of harassment on the basis of race, sex, religion, ethnicity or sexual orientation; officer-involved shootings (hit or non-hit); and in-custody deaths. We acknowledged that IAB did not have the resources to do all of these investigations in a timely fashion and noted that the slow pace of IAB investigations were unfair to the officer being investigated; that “the uncertainty hanging over the head of a deputy and the possible cloud on the deputy’s reputation can produce unintended cruel results, to say nothing of distracting a deputy from performance of duties and increasing anxiety and worry.”

Subsequent to the **Kolts Report**, negotiations between the Department and us produced a compromise under which, for the time being, the Department agreed automatically to respond with roll-out teams to all shootings and other serious force incidents and to roll on a discretionary basis with respect to other force incidents. A procedure was instituted for review within 72 hours of all force where the Force Team elected not to roll. If any of those incidents required further investigation, it was to be performed by IAB "unless the Chief of Professional Standards and Training" directed otherwise. Similarly, any investigations arising from citizen's complaints of excessive force were "normally" to be investigated by IAB.

The compromise was based upon understandings that it would be the rare exception, and not the rule, that a force incident would be investigated at the unit-level. This has not proven to be the case.

And, although we have seen some improvement since the **Kolts Report** in unit-level investigations, there is some perceptible bias, ranging from the trivial to the occasionally serious, in a majority of the investigative summaries. In a substantial minority of unit-level investigations, watch commanders still tend to provide a one-sided account of the evidence which favors the officer under investigation. Accordingly, we do not believe that The Department has yet implemented the **Kolts recommendations** with respect to force investigations. We strongly urge that an effort be mounted to attain substantial improvement in the quality of unit-level investigations.

It may be asked why we do not recommend immediate abolishment of unit-level investigations of force incidents. Certainly, if we are looking to institute procedures that in the short run would assure greater integrity, we would unhesitatingly so recommend. The Department, however, has made real strides in reducing the number of severe force incidents. Moreover, there is a real value in sergeants, lieutenants, and captains having responsibility and being accountable for the quality of unit-level investigations.

We prefer, therefore, that improvement of the quality of unit-level investigations be a

high priority. If they cannot be brought up to an acceptable level of quality, we will then revisit the question. For similar reasons described in the introduction to this Report, we hold in abeyance any final judgments about where primary responsibility for investigation of officer-involved shootings and custody deaths should be placed as between the Homicide Bureau of the Detectives Division or IAB or ICIB within the Professional Standards and Training Division.

### *Adjudication Of Force Investigations*

In many instances, it is not easy to decide if the level of force used is unreasonable or excessive. The use of force is an unavoidable aspect of good police work. Many investigations come down to a credibility contest between the citizen and the officer. The citizen may seem less credible because of intoxication or a criminal record. Likewise, the officer's credibility may be compromised because an admission of unnecessary or unreasonable force may lead to a suspension or, in cases of serious force, the end of a career. Despite these difficulties, the **Koits Report** expressed concern at what appeared to be unwarranted "unfounded" or "unresolved" cases.

Three years have passed. There are now fewer cases in which excessive force allegations are deemed "Unfounded" or "Unresolved" despite substantial evidence of misconduct. Specifically, there are fewer Unfounded or Unresolved cases where the physical evidence contradicts the officer's version of events. There are fewer cases in which the Department automatically discredits the word of disinterested civilian witnesses over the word of involved officers. We even came across a case in which a captain sustained — correctly, in our view — allegations of excessive force by two inmates despite denials by numerous officers at the scene. Such a result was rare indeed prior to the **Koits Report**.

These fairer results notwithstanding, we continue to find cases in which the

**decision to exonerate the officer simply defies explanation, and there are still incidents, almost all in the custody setting, where the use of force is either senseless or overly-severe.**

**We were dumbfounded with a captain's exoneration of a sergeant in the following circumstances: After a relatively minor altercation with deputies, an inmate, who had a reputation for getting into fights, was brought to the jail infirmary for a physical examination. The attending nurse found no substantial injuries, although she did note that the inmate's blood pressure was slightly elevated. In order simply to assure herself that the elevated blood pressure was merely transitory, she requested that the inmate be brought back in an hour after he had cooled off.**

**An hour later, the sergeant brought the nurse to the cell for the follow-up blood pressure test. The inmate angrily refused to submit to the examination. Rather than waiting for the inmate to calm down, rather than trying to reason with the individual, or rather than asking the nurse whether the follow-up blood pressure test was really necessary, the sergeant assembled a seven-man team armed with flashlights, mace, and a taser to extract the inmate from his cell. Predictably, a brawl ensued. Several deputies punched the inmate in the face and struck him with flashlights. Another sprayed him with mace. Yet another shot him with a taser. At length, the deputies subdued the inmate so that his blood pressure could be taken. By then, the inmate was badly bruised and cut. His jaw was broken so badly that it required surgery.**

**An IAB investigation of the sergeant ensued. In his interview with IAB investigators, the sergeant said that his captain should not second-guess his judgment in such situations. According to the IAB report, the sergeant continued to maintain that the "force used in this incident was completely controlled, and minimal."**

**The officer's captain agreed. In a memorandum explaining his decision, the captain wrote that the "investigation revealed that [the sergeant] did in fact consider a variety of options, however, due to the concerns about the inmate's health by the medical staff, he**



elected to have the deputies subdue the inmate so medical attention could be rendered. The investigation revealed these actions were well within Department policy and require no further action to be taken in this matter." The captain neglected to mention that the "medical attention" in question was a blood pressure test which the infirmary nurse confirmed, in a tape-recorded interview with IAB investigators, was not medically necessary. The captain also failed to mention why it would not have been better simply to leave the inmate alone until the situation cooled off. This case was decided in 1993, although the incident itself occurred in the immediate aftermath of the Kolts Report. Nonetheless, that any such decisions were made post-Kolts is dispiriting.

## *Discipline*

In its analysis of over 1,000 force-related investigations spanning a five-year period, the Kolts Report concluded that the Department was too lenient in the way it disciplined officers found to have engaged in excessive force.

The situation has not changed very much. Despite the LASD's promulgation of written guidelines for discipline in November 1991, we still found substantial variations in the discipline imposed both between stations and within a given station itself. We also found that captains remain disinclined to impose substantial penalties for serious misconduct. We reviewed 63 cases between January 1, 1993 and May 1, 1995 in which

<b>2</b>	
<b>LASD Discipline For Force-Related Misconduct</b>	
<b>Discipline</b>	<b>January 1, 1993 - May 1, 1995</b>
No Discipline	1
Counseling	0
Written Reprimand	15
1-5 Day Suspension	24
6-15 Day Suspension	8
16-30 Day Suspension	8
Reduction in Rank	1
Discharge	6

the Department found that excessive force had been used. Table 2 displays the range of sanctions imposed. Forty of the 63 cases resulted in mild sanctions of written reprimands or suspensions of five days or less.

The range of punishment, in

isolation, does not provide much information. If those 40 cases were indeed trivial, the light sanctions may have been appropriate. **We were disappointed, however, to find several examples of trivial discipline for serious misconduct.**

### **Vulnerable Victims**

We were particularly disturbed to find instances of trivial discipline where the victim was particularly vulnerable and where the officer could offer no reasonable explanation for the force used.

- A deputy responding to a "person down" call found an intoxicated Latino man lying unconscious in the bushes. After shouting failed to rouse the man, the deputy applied force to the man's chest, causing a small bruise that the investigator noted could have been caused by a baton or flashlight. When that technique failed, the deputy sprayed the man several times in the face with pepper spray. Upon regaining consciousness, the man was turned over to his wife. The next day, the man had to go to the hospital for treatment from the pepper spray. Why an unconscious man should be pepper-sprayed is incomprehensible. The deputy was suspended for a mere four days.
- A deputy responded to a fight call and found a 14 year-old boy fighting with two juveniles who had been calling him names. The deputy stepped in to pull the 14 year-old aside. The boy, who was mentally disabled, shoved back at the deputy. A man who drove the boy to school attempted to tell the deputy that the boy was a special education youth with severe mental impairment. The deputy pushed the man away. After a brief struggle, the deputy handcuffed and arrested the boy. Entering the station house, the boy continued to scream and struggle. A sergeant who observed the incident said that the boy appeared to be in "excruciating pain." The deputy, in full view of his sergeant and captain, stomped on the boy's foot, pulled his hair, and marched him down the hall, yelling, "I'll fuck you up right here, do you understand me? I'll kick your ass right here,

do you understand me?" The boy failed to calm down. The deputy forcibly slammed the boy into a chair and later shoved the handcuffed boy out of his chair. When the supervising sergeant later approached the deputy to ask about the incident, the deputy replied, "Fuck it! I should have kicked his ass. I'll take the 10 days." The deputy later apologized to his sergeant (though apparently not to the boy, who was not charged with any crime). The deputy received a two-day suspension.

- Officers responding to an attempted suicide call found a deranged woman who had poured a gallon of gasoline on herself and was threatening to set herself on fire with a cigarette lighter. While four deputies struggled to handcuff the woman, an LASD sergeant fired a taser at the woman. Fire department personnel at the scene reported to investigators that they were concerned that the taser could have ignited the gasoline and seriously injured the woman and the four deputies. Fortunately, one of the two taser darts failed to stick to the woman's skin, thereby not releasing the electricity which could have ignited a fire. The sergeant (who initially failed to report using the taser) later attempted to explain that he had aimed for a "dry spot" on the woman. The Department, correctly finding that the sergeant "exhibited a total lack of judgment," initially suspended the sergeant for 10 days. When the sergeant grieved the discipline, however, the Department agreed to reduce the suspension to two days if the sergeant did not violate force reporting policies within the next 12 months.

### **Treatment of Inmates**

Judge Kolts and his staff were greatly concerned by officers' treatment of inmates in the jails. We found both that deputies were quick to use force and, in several instances, inflicted savage beatings of inmates. In our **Semiannual Reports**, we have tried to make clear to Department officials that cleaning up deputies' conduct in the jails was a Kolts recommendation of high priority.

To be sure, there has been some progress in this area. Almost no investigations

involve severe beatings. The investigations are less likely to involve instances where deputies pile on a struggling inmate or enter the fray swinging heavy flashlights.

On the other hand, the Department has made little progress in reducing deputies' use of relatively minor but nonetheless gratuitous force. We continue to find many investigations wherein deputies respond to talkative or uncooperative inmates with a slap to the face or a shove to the wall. The typical punishment for sustained instances of such conduct is a suspension of two days. We wonder whether two days off is adequate to discourage the gratuitous and unnecessary force in the jails. Some examples follow:

- One female deputy responded to sexist insults by a handcuffed prisoner by slapping the prisoner in the face. She then unhandcuffed the inmate and challenged him to a fight. She was suspended for two days.
- A Latino inmate responded to a deputy's commands by claiming that he could not understand English. The deputy responded by slapping the inmate in the face. The deputy admitted that the use of force was unnecessary and received a two-day suspension.
- An inmate standing in the "chow line" complained about the quality of jailhouse food. A deputy responded by placing the inmate in a wrist lock and shoving him against the wall, causing a minor head injury. The deputy also failed to report the use of force and initially understated to an investigator the amount of force used. The captain of the jail issued a written reprimand for failure to report force and was silent on the issue of whether the use of force itself was proper.
- A male deputy swept the legs out from under a handcuffed female inmate who, while uncooperative, posed no threat to the deputy or others. The inmate fell hard on her buttocks, slightly injuring her tailbone. Although the jail captain noted that the deputy's use of force was gratuitous and could have resulted in serious spinal injury, he suspended the deputy for only two days. The suspension was subsequently reduced in the grievance process to a written reprimand.

## **Racial Incident**

During this review period, we found a 1993 case decided in the last few months which troubled us greatly because it suggested that an LASD officer, while off-duty and having been drinking, used racial and derogatory remarks while striking an African-American male. The man had approached the officer and tried to sell him a car radio. The officer formed the opinion that the radio was stolen; identified himself as a deputy sheriff; grabbed the man's arms; and took him to the ground while the man mildly resisted. The man suffered injuries, and a pool of blood formed around his head as he was held to the ground. It was later determined the the radio was not stolen and the man was released.

The deputy failed to report that he had used force. When confronted by his sergeant after the man had filed a complaint, the deputy initially denied striking the man. The African-American individual additionally claimed that the deputy had referred to him as a "nigger" and said that he "hated niggers." An independent witness verified that he heard one of the officers say "nigger." Despite this egregious conduct — failure to report force, denying use of force when confronted by the sergeant, and use of offensive and insulting racial epithets — the Department ordered the officer suspended for a mere ten days. The ten-day suspension was then reduced to five days as part of a settlement negotiation of the deputy's grievance. In our view, the punishment was a slap on the wrist for the officer. **We were very disappointed that the Department brushed off conduct like this with a five-day suspension.**

## *Department Reforms Underway*

This having been said, we are pleased that efforts to improve discipline are underway. As has usually been the case, it is the Professional Standards and Training Division that is leading the effort to reform the Department. To that end, a team headed by PSTD Chief Gerald Minnis has spent the last few months substantially reworking the

1991 Guidelines for Discipline which are widely viewed as having fallen short of providing Department managers with a meaningful framework for determining discipline. The 1991 guidelines, which were briefly described in the **Koits Report**, set forth ranges of discipline for various types of misconduct and provided for enhanced punishment if the misconduct was a second or third offense. The shortcomings of the 1991 guidelines are: (i) they are too broadly worded to provide managers with adequate guidance on how to distinguish between different instances of excessive force; (ii) the ranges of discipline are either too broad or too severe, causing many to ignore the guidelines altogether; and (iii) there is no way to ensure that managers justify and articulate why they impose a particular level of discipline.

Chief Minnis has proposed that the new guidelines follow a new paradigm. Rather than merely providing the captain with a broad range of discipline (e.g., discipline ranging from a five-day suspension to discharge), the new guidelines will provide the captain with a narrower range of "standard" discipline (e.g., five- to ten-day suspension). The new guidelines will then require a captain to consider a host of aggravating or mitigating factors to determine whether an upward or downward departure from the standard is appropriate. A captain may depart from the standard discipline only after identifying those aggravating or mitigating circumstances (e.g., the harm caused by the deputy or the deputy's willingness to accept responsibility for his actions) underlying the decision.

This model, which resembles to some extent the United States Sentencing Guidelines, offers substantial promise. Particularly heartening is the requirement that managers specifically identify what factors they consider to be aggravating or mitigating. This requirement, if properly enforced, promises to make managers more accountable for their disciplinary decisions.

As this report goes to press, Chief Minnis and his staff are continuing to work on the many factors which may go toward enhancing or reducing the standard level of disci-

pline. Although it is premature to discuss the new guidelines in detail, we were encouraged to see a movement away from mere written reprimands for unnecessary or excessive force. **The LASD must make clear to its officers that any unreasonable or excessive use of force will have direct, palpable consequences, including, at minimum, suspensions without pay.**

We were also pleased to see that Chief Minnis has actively sought the input of captains who usually impose discipline in the first instance. We will review the new guidelines in our next audit to assess what progress has been made.

## 4. Investigating Serious Force Incidents

In our **Third Semiannual Report**, we audited three patrol stations to measure whether deputies were properly reporting when they used force. Overall, we were encouraged to find that deputies duly reported force incidents, but we also found that supervisors were inconsistent in memorializing and tabulating force incidents and citizen's complaints.

This time, we wanted to learn whether special procedures for documenting serious, high-risk uses of force were being followed. We went to one jail and three stations (different ones from those audited in the **Third Semiannual Report**) to audit "Force Review Packages" prepared at the station or jail.

Many lieutenants and sergeants do an excellent job documenting serious force incidents through audiotaped interviews, videotapes, and photographs. On the other hand, we also found confusion about whether it was discretionary or mandatory to include photographs. Moreover, we listened to several audiotapes in which the supervisor questioning a suspect exhibited bias or outright hostility to the complaint of injury.

### *Department Policy Governing Serious Uses Of Force*

In August 1993, the LASD instituted new procedures for handling of force incidents, particularly those involving actual or alleged injury to the suspect or inmate. Some force incidents are so serious that they must be immediately reported to an IAB lieutenant. Those incidents are:

- Hospitalization due to injuries caused or allegedly caused by any Department member;
- Skeletal fractures caused or allegedly caused by any Department member;
- Force used by any Department member during or following a vehicular or foot pursuit;
- Injury or complaint of injury to a person's head, resulting in hospital treatment, following contact with any Department member, or resulting from strikes with impact weapons (e.g., flashlights or batons);
- Canine bites resulting in hospital treatment; and



- Any death following a contact with any Department member.

The IAB lieutenant determines whether to require a Professional Standards and Training ("PSTD") Response Team to go immediately to the scene. Roll-outs for shootings, in-custody deaths following an altercation with an LASD officer, and hospitalizations are mandatory. There were 107 such mandatory roll-outs in 1994 and 45 for the first five months of 1995. In other instances, the lieutenant has discretion to order a roll-out. We found that IAB has shown very good judgment in determining which incidents do not require immediate dispatch of a Response Team.

## **1. Contents of Force Review Packages**

If the IAB lieutenant decides not to dispatch a Response Team, the incident nonetheless must be thoroughly investigated by the watch commander at the concerned station or jail and documented in a Force Review Package, or FRP, which must include the following materials:

- A detailed memorandum to the captain describing the investigation and explaining the incident in light of statements taken from witnesses, suspects, and qualified medical personnel;
- The Supervisor's Report, Use of Force (SUOF) which describes the incident;
- Any supplemental reports by the involved officers which describe the incident;
- A copy of the in-service roster which shows which officers were on duty at the time of the incident;
- A copy of any medical reports relating to the suspect or inmate;
- Either a photograph or videotape of the suspect's or inmate's injuries or areas of alleged injury;

- Audio or videotaped interviews of the suspect, inmate, or witnesses by the watch commander; and
- Any other material, such as radio transmission tapes, which relate to the incident.

## **2. Procedures for Department Review of FRPs**

**Captain's Review.** All FRPs are routed to the captain at the station or jail to decide whether any further action is warranted. If so, the captain may (i) order his or her lieutenants and sergeants to conduct a formal administrative investigation of the concerned officers for possible misconduct; (ii) request a formal administrative investigation of possible policy violations by the Internal Affairs Bureau (IAB); or (iii) request the Internal Criminal Investigations Bureau (ICIB) to investigate possible criminal misconduct.

If the injured party is transported to a hospital for medical treatment, the captain must give documentation about the incident to the division Chief and to IAB. As a general matter, neither the Chief nor IAB receive the full FRP for their review. Rather, they receive a "mini-FRP" (our term) which contains only the following materials: (1) the watch commander's memorandum; (2) the Supervisor's Report, Use of Force regarding the incident; and (3) any supplemental reports submitted by any involved officers.

**Division Chief Review.** The Chief, within three business days of receipt, must review the mini-FRP and decide whether to: (i) concur with the captain's disposition; (ii) ask for additional documentation; or (iii) request an IAB or ICIB investigation.

**IAB Review.** IAB likewise has three business days to review the mini-FRPs to "ensure that a disinterested, experienced investigator examines the incident in terms of policy adherence, potential liability and completeness of documentation." IAB may request additional documentation from the station or jail, dispatch the Response Team, or conduct a full-blown IAB investigation. In practice, where the only criticism of an

FRP is poor documentation, IAB generally contacts the watch commander at the station or jail and specifies what should be added to the file.

### *Our Analysis Of Force Review Packages*

The procedures outlined above for preparing and reviewing a Force Review Package in theory provides three layers of review (station, division, and IAB) so that the Department may meaningfully (i) assess possible misconduct of its officers, (ii) properly manage an incident which poses a liability risk to the County, and (iii) make certain that the file is adequate in the event of litigation which may arise from the incident.

Our audit tested the quality of a sample of Force Review Packages prepared between January 1 and June 30, 1994. We chose to analyze each Force Review Package prepared at three stations and a jail involving high-risk force where an IAB lieutenant had exercised discretion not to dispatch a Response Team. We chose one station from each of the Department's three Field Operations Regions and one large custody facility. For some of the tests we performed, we attempted to analyze the files from the perspective of an attorney defending the County in an excessive force lawsuit.

Altogether, we reviewed 73 Force Review Packages meeting our criteria — 26 from the first station; 12 from the second; 9 from the third, and 26 from the jail. We found that about 25 percent of the files were thorough, complete, and contained excellent analysis. They served well the triple purposes of assessing potential misconduct, providing a basis for managing potential liability, and defending the Department, if necessary. Another 50 percent were satisfactory overall, and another 25 percent had significant problems. The jail had the most problems.

**Missing Materials.** About 80 percent of the FRPs from the jail unit did not contain tapes of witness interviews, despite a clear policy directive to provide such tapes. In many files, we simply could not distinguish what was missing from what was never

prepared in the first place. For example, if there are no witnesses to an incident, the watch commander memorandum should so state. Otherwise, where a file does not contain a video or audiotape of a witness interview, it is difficult to tell whether (i) witnesses were present but were not interviewed; (ii) witnesses were present but declined to say anything about the incident; (iii) witnesses were interviewed but the audio or videotape is missing from the file; or (iv) there were no witnesses to the incident. Even where watch commanders used a checklist to make sure the file was complete, there were instances where the checklist had not been used properly.

**Incomplete Or Misleading Watch Commander Memoranda.** With the exception of one exemplary station, we frequently found watch commander memoranda which either omitted or misdescribed key evidence obtained in suspect or witness interviews. This is disturbing because the reviewing captain, Chief, and IAB rely heavily on these memoranda to assess the incident: they do not receive the audiotapes or videotapes in the mini-FRPs. For example, one memorandum stated that "Inmate [B] acted somewhat delusional during the interview and did not make any coherent statement." The audiotaped interview, however, showed that the inmate was lucid and had no difficulty responding to questions. Indeed, the inmate twice corrected the watch commander for mispronouncing his name.

A more serious example involved a scuffle between a deputy and a female suspect who admittedly attempted to escape from the back seat of a radio car. The watch sergeant's memorandum summarized the suspect's account of the incident:

*"Suspect [C] related the following information: She said that she was in [a [car] with [a male companion] travelling down [X] Avenue when the two deputies pulled them over. She then recognized Deputy [D] from previous contacts. Suspect [C] said that Deputy [D] placed her in the back seat of his radio car unhandcuffed and ran her for warrants. Deputy [D] then advised her that she in fact had a warrant and he was going to place her under arrest. She said that she told them she did not want to go to jail. The deputies then*

*tried to handcuff while she was in the back seat of the car. . . . During this time, the deputies kept asking her to place her hands behind her back but she resisted and tried to get away."*

As described in the watch commander's memorandum, the incident appears to be a routine arrest. It does not appear to involve any misconduct by the officers or risk of liability to the County. Accordingly, it is not surprising that this file sounded no alarm bells.

A review of the audiotape, however, demonstrated that the memorandum failed to note serious allegations of misconduct made by the female suspect. Whether the allegations were true or not, they raised issues which should have been aired in the memorandum. According to the audiotaped interview of the suspect C, she was sitting in a car when Deputy D came up to the window and began questioning her. Among other things, Deputy D asked her whether she ever performed oral sex on the driver of the car, stating, "Bet you like that, huh?" Later, when Suspect C was sitting unhandcuffed in the back seat of the radio car, Deputy D tapped on the window and began repeating, "Ha, ha, [Suspect C] got a warrant!" Deputy D then asked Suspect C to lie face down in the back seat of the radio car. Possibly inferring from the earlier comment about performing sex that she was in danger of sexual assault, Suspect C stated that she did not know what the deputies were up to at that point, and so she resisted. She also stated that she did not want to be arrested.

Whether Suspect C was telling the truth or not, she makes allegations which merit further investigation to determine whether misconduct in fact occurred and, if so, whether the incident poses a risk of liability. The file was inadequate (i) to defend the County if indeed Suspect C was lying, and (ii) to sound alarm bells if she was telling the truth. (This is particularly so in light of the relatively recent criminal conviction of an LASD deputy for sexually assaulting female citizens following traffic stops.) The watch commander did

not disclose any of these allegations in his memorandum. He did not treat her allegations as a personnel complaint necessitating use of a Service Comment Report to record her allegations. As a result, the captain, Chief, and IAB remained wholly ignorant of the allegations made against Deputy D.

As we indicated in our **Third Semiannual Report**, the LASD routinely does not complete a Service Comment Report ("SCR") when an arrested suspect complains of misconduct. Instead, the Department generally does so only when a citizen announces that he or she wishes to file a formal complaint. Thus, drawing from the above example, if Suspect C came to the station the morning after her release and said she wanted to file a citizen's complaint about Deputy D's harassing comments, the station would no doubt have recorded an SCR and conducted an appropriate inquiry into her allegations. Failing to follow that procedure merely because Suspect C made the complaint while under arrest, when combined with the failure of the watch commander's memorandum to alert the Department to her claims, means that the Department loses an opportunity to manage a potentially troublesome incident. It will also lead to an under-reporting of allegations against Deputy D. In this light, **we renew our recommendation that the LASD record, investigate, and track all complaints of misconduct, regardless of how those complaints come about.** Only then will supervisors have the necessary information to deal with liability risks and possible personnel problems.

The story of Suspect C and Deputy D is not an isolated instance. We found many similar memoranda which did not accurately report the suspect's or inmate's allegations or complaints of misconduct, particularly where the misconduct at issue was an alleged verbal taunt by a deputy. As a result, supervisors are not receiving adequate information. They should know when there are allegations that deputies are precipitating fights with verbal comments.

**Photographic or Videotaped Evidence.** Most files duly contained either photographic or videotaped evidence of actual or alleged injuries. Many FRPs we

reviewed contained photos or videos which adequately documented the areas of obvious injury. Many, however, lacked photographs of areas where there was no apparent injury. This occurred often enough to surmise that some watch commanders mistakenly believe that their job is to obtain photographs only where there is a visible injury. Indeed, one watch commander observed in his memorandum, "The only sign of physical injury was swelling in the middle of the back, to the right of [suspect's] spinal column. . . . *No photos were taken due to his lack of visible injuries.*" (Emphasis added.) This watch commander apparently did not appreciate that a photograph revealing no visible injuries is as valuable to the Department as one showing a black eye or a bloody nose. Indeed, some of the best FRPs we viewed contained photographs or videotapes showing no injuries whatsoever — despite the suspect's claim that he was pummeled with batons and flashlights.

We found other problems as well. Some videotapes had useless, blurred images of injured suspects. Other videotaped interviews stopped prematurely, cutting suspects off in mid-statement and making it look as though damaging statements had been edited out of the interview. Some FRPs contained photographs of areas of **actual** injury, but contained no photos of areas of **alleged** injury. Several files had a photo ostensibly taken to document cuts to a suspect's face, but the photo, taken too late, was a useless picture of a suspect whose cuts were completely covered with bandages.

**Statements From Medical Personnel.** Department policy requires inclusion of any pertinent medical information in the FRP, and the policy in general was followed. Typically, a file would have notes from the concerned medical personnel which briefly described the nature of the injury and the treatment provided and a notation in the watch commander's memorandum that the attending physician or paramedic was interviewed and that "the injuries sustained by the suspect are consistent with the force reported by the deputies." The statement would be more valuable if it came directly from the mouth of the physician rather than from the watch commander. Some of the best files we

reviewed contained brief but thorough taped interviews of attending nurses of physicians, who invariably appeared to be neutral and thoughtful about the injuries sustained. We therefore recommend that, where practicable, watch commanders obtain and put in the file a tape-recorded interview of any involved medical personnel.

**Quality And Integrity Of Recorded Interviews.** We reviewed all videotaped and audiotaped interviews in the files for thoroughness and fairness. This was perhaps the most crucial part of our review, because nearly all watch commander memoranda appeared, at least on their face, to reflect fair and thorough investigations. We found non-trivial deficiencies in about 25 percent of the interviews.

Some audiotapes were flawed by sloppy questioning techniques in which the interviewer asked the suspect, "You were hurt *there*?" without identifying the body part in question. We listened to a few others in which the interviewer simply ignored the citizen's complaint of misconduct, particularly where the misconduct alleged was a verbal taunt or inappropriate comment. Ignoring the citizen's allegations is not wise. First, verbal confrontations between deputies and civilians often precede use of force. Second, the failure to respond to the complaint leaves an incomplete and misleading record that will not serve the Department well in court at a later time.

More disturbing were interviews which suggested pressure or bias on the part of the Department. In several instances, watch commanders questioned suspects or inmates in the presence of the officer who had allegedly injured them. Indeed, we found two files in which the deputy accused of misconduct interrupted the audiotaped interview to argue with the suspect about the events which had transpired.

We also found interviews in which LASD personnel were either hostile or sarcastic. In one interview, an inmate appeared to be incoherent and incapable of responding to the watch commander's questions. The watch commander quickly lost his temper and concluded the interview by stating: "Mr. [A] is not going to cooperate, and I think he's feigning ding-dong to get out of being disciplined." In another videotaped interview,



a suspect claimed that deputies had "stomped" him repeatedly. The interviewer responded in sarcastic tones, "Yeah, right. You have a little scratch on your face." The video camera was focused on the **opposite** side of the man's face, away from where he claimed he had been injured. In yet another interview, an inmate complained of being kicked in the tailbone area by deputies. Instead of inquiring further, the watch commander snapped, "They did not kick you there. . . . I was told they hit you with a flashlight in the lower back; that's probably what hurts. Anything else?"

Sarcasm and overt hostility undermine even otherwise well-documented files. So do anger and protracted argument with the suspect. By arguing endlessly with the suspect on tape about what the suspect had allegedly said off-tape exculpating the deputies, one interviewer seriously compromised the integrity of an otherwise solid file which documented the pursuit of a suspect who had fought with deputies and subsequently fell down from a fence.

**Force Patterns in FRP Cases.** By and large, the incidents we reviewed did not involve particularly severe force. We also found a number of cases in which deputies exercised commendable restraint in dealing with recalcitrant suspects. Particularly laudable was the work of a team of deputies pointing their guns at a mentally deranged suspect who was wielding several knives. The deputies, with the guidance of a field sergeant, kept their distance and engaged the suspect in a dialogue. The incident ended with no shots fired and no deputies injured. In our experience, this kind of incident might have resulted in a fatal shooting only a few years ago. We were therefore pleased to see incidents like this one along with others where officers, without compromising their own safety, used non-lethal and less injurious alternatives instead of deadly or serious force.

In contrast to what we saw at the three patrol stations, **we found many examples of wholly gratuitous force in the jail. Specifically, we found that slightly more than half of the files reviewed at the jail facility involved force apparently initiated**

**by deputies in response to an inmate's verbal confrontation or refusal to comply with instructions. Department veterans know these incidents well; and commonly refer to them as "felony stare" cases: incidents where the deputy claims that he threw the first punch because the inmate's stare indicated that he was about commit a felony assault. Although we recognize that jails are potentially dangerous places, we found many instances in which the deputy's own version of events indicated that there was no need for him to punch the inmate or shove the inmate against the wall.**

**For these and for other examples throughout this Fourth Semiannual Report, we continue to be very concerned about the degree to which the jails lag far behind the patrol stations in their implementation of the Kolts recommendations. We strongly recommend that LASD managers and executives take a closer look at the force being used in the jails. Because new deputies currently spend five years or more working in a custody environment, a practice which we have long argued should be rectified, new deputies must clearly learn from the very outset that the Department will not tolerate the gratuitous use of force or provocation of fights with inmates.**



## 5. Command Accountability & Evaluation

Over the last three years, the Sheriff's Department, with our encouragement, has undergone a thorough and rigorous internal debate concerning the allocation of responsibility throughout the organization. The debate has taken place concurrently with drafting, revising, and approving the Department's Policy Manual on the subject of accountability. **The resulting document is excellent; it is a model for every police agency in the country.** In order to understand how far-reaching the changes are in the way the duties of each rank are conceptualized, it is useful to step back a couple of years.

In the **Kolts Report**, we observed that the Sheriff's Department had no precise articulation of expectations and how to measure the performance of personnel within the Department — from the Sheriff on down. There were few goals and timetables, and there was little by way of internal auditing of the performance of captains, commanders, and chiefs. Performance evaluations for all managers were conducted using the same form, and there was little or no thought given to the particular and differing responsibilities of various jobs. Specific expectations in the areas of force reduction, community policing, and risk management had not been thought about with sufficient rigor, if at all.

The tendency within the Department, as reflected in early drafts of proposed policy revisions, was to push responsibility and accountability down to captains, lieutenants, and sergeants. That allocation of responsibility let senior management largely off the hook and seemed to encourage finger-pointing ("the deputy should have known better"), self-protective willful blindness ("we don't keep track of that kind of information because we don't want it to fall into the hands of plaintiffs' lawyers"), plausible deniability ("no one ever told me that Station X was out of control"), reactivity ("how are we going to do damage control on this mess?"), and rigidity ("we've always done it this way").

Our criticism of the early drafts of command accountability policies in prior **Semiannual Reports** was blunt: we said the Department had "shrunk before the

obligation to make commanders and chiefs truly accountable." We concluded that the way the Department thought about accountability left "much to be desired" and that the Department had "failed to come to grips with or implement the Kolts recommendations in the area."

The recently-approved policy manual revisions cure these deficiencies and more. The new policies impose a revised standard of personal accountability as well as newly-crafted standards of responsibility for the acts and omissions of subordinates. The most far-reaching of the changes have to do with encouraging personnel to be proactive rather than reactive; setting forth areas in which they must "ensure" certain results, or have "affirmative obligations," or must be "personally versed" in the facts, or must be "proactive and vigilant," or must "anticipate and address" expected problems.

There is no longer any place to hide behind self-imposed ignorance, or willful blindness, or plausible deniability. There are safeguards to prevent a collapse of command accountability. If adhered to, these policies should make the "Code of Silence" a thing of the past. There are detailed, affirmative duties to act. There is a predicate for investigation after an incident causing liability or harm to the Department to identify those **at all levels of the command structure** — not just the deputy and the occasional sergeant — who knew or should have known of the problems and failed to take adequate measures to prevent the incident or report the risk. Every person in the Department, from the Sheriff down through captains (drafts for sergeants, lieutenants and deputies are currently being circulated to the unions), at least on paper, is now responsible for:

**His personal acts and omissions, and, when reasonable and appropriate, the acts and omissions of his subordinates. In connection therewith, his supervisory and managerial responsibilities shall include, among others:**

**(1) A responsibility to take appropriate corrective measures consistent with his**

**rank and authority when he is, or reasonably should be, aware that such measures are called for, and**

**(2) A responsibility to use the information and management tools available to him, including, but not limited to, manual and automated personnel information, to attempt to anticipate and address, through corrective measures consistent with his authority, reasonably identifiable Departmental risks or potential employee misconduct.**

These positive obligations are developed and explained in detailed job descriptions for each separate rank.

It is particularly interesting to compare the current job description for the rank of commander with the earlier inept draft that told the commander to use "the least intensive management style" in executing his or her supervisory duties.

In stark contrast, currently policy states that commanders are now "responsible for ensuring that units under their command are meeting Department and division standards of operation." Commanders must be "**personally versed**" in their units' major operational indices, including personnel, budget, "incidence of force and complaints, risk management, [and] liability" and have "**an affirmative obligation**" to provide captains with appropriate support and direction in the maintenance of standards. The commanders must affirmatively "**develop in conjunction with their Captains appropriate unit goals and objectives,**" and commanders must conduct "**audits of unit operational and management functions to ensure consistency and adherence to policy.**"

Commanders are charged with "knowing the strengths, weaknesses, and special skills of their immediate subordinates, and where reasonably possible, those of other subordinates in their areas of responsibility." They must monitor "the administrative investigations process of their units to ensure timely and accurate processing." They must "reinforce through actions and statements" the Department's anti-discrimination

policies. They are accountable for **“ensuring”** that public interaction and community involvement” are reflective of the Department’s **“Service-Oriented Policing philosophy”** and they must **“promote community partnerships.”**

Commanders must be **“proactive and vigilant”** in ensuring that the units under their command are, among other things, operating:

- within budget;
- within appropriate discipline and non-discrimination guidelines; and
- with appropriate management oversight of force, liability, and other areas of risk.

Commanders are accountable for **“minimizing risk to the County, Department and its employees by monitoring, reviewing, documenting, disciplining and rewarding employee performance, as well as identifying procedures or policies that need changes and making appropriate recommendations for change.”**

These detailed responsibilities are a far cry from the absurd **“least intensive”** management initially proposed, and the duties of each rank within the Department are similarly detailed and well-conceived.

The standards that are set forth in the Policy Manual are being translated into drafts of Management Evaluations Reports for use in personnel evaluations. Various rating categories are proposed, and there are exacting descriptions of what it means to exceed expectations, to meet expectations, and to fall short of expectations in each category. For example, one category of evaluation is how the supervisor manages critical incidents. The supervisor who fails to achieve expectations is one who, among other shortcomings, **“demonstrates narrow perspective or superficial understanding”** about his or her role in **“managing use of force, critically and objectively evaluating force incidents and encouraging proper force tactics.”** The under-achieving supervisor **“fails to hold subordinate managers/supervisors accountable for appropriate force documentation and review.”** On the other hand, the manager who exceeds expectations **“demonstrates broad**

perspective" about his or her role in managing use of force by "consistently discouraging unreasonable force and encouraging safe tactics, restraint, teamwork, and planning in force incidents." The superior manager effectively "enlists subordinate managers/supervisors in the effort to continuously address force issues with their personnel."

The selection of categories and the criteria used to distinguish a good manager from a bad one are thoughtful and appropriate. The categories are worth listing, because they constitute a useful checklist of areas in which a police manager appropriately should be judged:

<i>Leadership</i>	<i>Accomplishment/Commitment</i>
<i>Professionalism</i>	<i>Managing Change</i>
<i>Public/community responsiveness</i>	<i>Managing as a Team Member</i>
<i>Planning &amp; Organizing</i>	<i>Managing Critical Incidents</i>
<i>Initiative &amp; Resourcefulness</i>	<i>Managing Work Environment</i>
<i>Decisionmaking</i>	<i>Managing Risk</i>
<i>Adaptability</i>	<i>Accountability</i>
<i>Managing Human Resources</i>	<i>Interpersonal Effectiveness</i>

The category of "Interpersonal Effectiveness" is one that we thought was particularly interesting in the way it conceptualizes the ideal officer and the contrast it draws between the old stereotype of the brusque, intolerant cop and the modern police executive. We read these descriptions thinking about how a captain might deal with a conflict between an irate citizen and a self-righteous deputy or between a weak sergeant and a group of overly-aggressive deputies: the captain who does not achieve expectations "has difficulty working with others and often negotiates to impasse, is often involved in personality conflicts and appears to be either overly aggressive or passive. Not tactful in communications." The ideal supervisor, however, "is often asked to mediate or help resolve conflicts. Influences rather than directs. Anticipates others' needs. Negotiates to a win-win conclusion even under extreme pressure. Demonstrates excellent, sensitive communication skills."



The Department has done a fine job re-drafting the Policy Manual on accountability, and it is in the process of doing similarly excellent work on forms for evaluation of personnel.

It is one thing, however, to put words on paper; it is another to put them into practice. Let there be no mistake: the new accountability standards reflect a sea change in the way police executives have become habituated to performing their functions. There is unprecedented stress on vigilance, proactivity, ensuring of results, anticipation of problems, initiating prophylactic and corrective measures, affirmative duties to use computerized data, responsibility for the conduct of subordinates, knowledge of the strength and weaknesses of subordinates, control of risk, and active management of force.

We hope in the next six months to see these new standards put into practice, and we look forward to interviewing captains, commanders, and chiefs about how they are responding to these new standards of accountability.

## 6. Canines

From the initial investigation that gave rise to the **Koits Report**, the Department's use of canines has been a subject of our particular interest and scrutiny. Of the lethal and non-lethal force options available to the Department to apprehend suspects, the use of dogs are among the most likely to generate strong emotion and spur lawsuits. Because canine apprehensions have these special characteristics, we have studied them with particular care.

Currently, the LASD's Canine Services Detail is supervised by a lieutenant. It is part of the Department's Special Enforcement Bureau, or SEB. SEB is headed up by a captain. The lieutenant in charge of the Canine Services Detail has significant collateral duties and responsibilities in addition to Canine Services. Canine Services currently has three sergeants supervising a total of 49 personnel, including 13 deputies who are in the Canine Services Detail and 36 other persons assigned to other duties. A fourth sergeant may be assigned in the near future to the Canine Services Detail. Given this configuration, the lieutenant in particular is spread thin, and it apparently is the case that there are too few sergeants to assure that one is present at every canine deployment.

In 1994, the Department reported a total of 921 searches involving canines of which 409 were for armed suspects. Of these 921 searches, there were a total of 183 apprehensions, of which 45 were by dog bite, leading to a bite percentage or "bite ratio" or 24 percent. Through March 1995, there were an additional 217 searches, 105 of which involved armed suspects, leading to 33 apprehen-

1 LASD Canine Program				
	Searches	Apprehensions	Bites	Ratio
1992	1030	225	51	22.7%
1993	940	179	42	23.5%
1994	921	183	45	24.6%
Total	2891	587	138	23.5%

sions of which eight were by dog bite, giving a bite percentage of 24 percent. Table 1 compares these statistics for the years 1992, 1993, and 1994 and cumulatively. There is little variance from year to year.

On May, 25, 1994, the Department issued its revised Canine Deployment, Search and Force Policy. We carefully reviewed the Policy and in our **Third Semiannual Report** found the Policy generally to be in accordance with the **Kohts** recommendations with two exceptions: we believed that for the guidance of personnel and for purposes of consistency and predictability, specific exceptions to the pre-deployment announcement policy, if any, needed be carefully described. We also believed that the decision to dispense with the announcement be approved by a lieutenant or more senior officer.

Since our last **Report**, there has been only one questionable failure to make a canine announcement. In that case, there was no apparent reason not to inform the barricaded suspect that if he did not give himself up, a dog would be released. Indeed, the Special Weapons team was already there and at least 30 "general warning" announcements had been given over the several hours of negotiation with the suspect. Given the prior general warnings, we wonder why a canine warning could not have been made prior to the dog's release.

Our focus on the pre-deployment announcement, and the circumstances, if any, in which it should be dispensed with, strikes some people within the Department as administratively unsound. Without intending to re-visit the issue at length in this **Report**, we nonetheless want to make clear what our reasons are for the focus on the announcement.

Over the last three years, we have tracked and reviewed many lawsuits involving canines, regardless of whether those cases involve the Sheriff's Department or some other police agency. At the risk of some simplification, it appears to us that the principal distinguishing factor in whether the police agency wins or loses is whether an announcement has been made. Among the other important factors are the age of the suspect (triers of fact are more uncomfortable when the suspect is a juvenile), the seriousness of the crime (triers of fact do not like to see dogs used on relatively trivial offenses), and the seriousness of the injuries. But the most important factor seems to be

I n M e m o r i a m

*Katharine L. Krause*

**J**ust as this report was completed and about to go to press, our close friend and colleague, Kathy Krause, died following a long struggle with cancer.

Kathy was among a small handful of persons responsible for the Kolts Report in its entirety and for each of the Semiannual Reports of the Special Counsel. Her loss is irreplaceable. Her influence on the Kolts Report was profound. Kathy knew how to create an environment in which change and improvement could occur. She was committed to the welfare of the wider community, and in particular to the growth of decency and respect by the police and for the police. Kathy gave us a clarity of purpose that was unwavering because Kathy never wavered. Her interest in the lives and careers of deputies, and particularly of women, gave us a perspective that can be seen in every report and recommendation. More than any of us, Kathy understood that time is short and that to make a difference, one has to be relentlessly diligent and focused; careful and precise in each word and each thought; and unwavering in commitment and dedication to the matter at hand. Kathy's rock-hard moral strength and clear sense of what mattered will continue to guide all of our efforts.



the announcement: If a suspect is given a chance to surrender before the dog is released, people seem to assume that the suspect may be responsible in part for his ultimate injuries because he was in a position to avoid them by coming out with his hands up.

Although the Department prides itself on not having lost a canine case at trial, it has settled a substantial number of canine cases for significant sums. The use of canines carries a high risk. The LASD's relatively high bite percentage, as compared to a similar canine program in another police department, convinces us that more direct supervision and different training of handlers should be seriously considered. If the bite percentage had been significantly declining over the last three years instead of rising slightly, we probably would be less concerned about the specific circumstances of each waiver and whether the waiver is approved by a sergeant or a lieutenant.

The question of whether to make an announcement, of course, is not simply an issue of risk management: there are also serious concerns about officer safety. Hence, as we have acknowledged in past Reports, there may be circumstances in which the balance may tip in favor of dispensing with an announcement.

The Department offers three reasons why some persons believe our recommendations in this area to be unsound. First, resources are too thin to guarantee the availability of a lieutenant for each decision to dispense with an announcement. Second, if the requirement for a lieutenant is made iron-clad, and if a lieutenant were simply unavailable, the unannounced deployment could be characterized as being out of policy if the resulting bites became the subject of a lawsuit. Finally, there may be true emergencies when there is simply no time to call a lieutenant.

With regard to the first argument, given the apparent shortage of supervisory personnel in SEB, especially at the lieutenant level, we understand why SEB has questioned our recommendation that a lieutenant should approve all unannounced deployments. But we still do not think that the shortage of personnel alone answers the question. SEB has made sure that there is a lieutenant at each deployment of the Special

Weapons team, also part of SEB. We question then why it is somehow too difficult to get a lieutenant to pass upon whether an announcement should be waived. Even if the one lieutenant assigned to the Canine detail is spread thin, we do not understand why the two other SEB lieutenants cannot be enlisted to play this limited role in connection with canine deployments.

As to the second argument, at least until the Canine Detail is able to get the bite percentage down substantially, we continue to advocate that the rule should be that a lieutenant has to approve the decision to dispense with the announcement. If a lieutenant is not available, a captain or other senior officer can be called. With respect to the third argument about a true emergency, we conceded in our **Second Semiannual Report** that there may be narrow and specific circumstances in which an announcement demonstrably endangers an officer's life. If so, we believe that those circumstances can and should be precisely defined beforehand and should be rigorously second-guessed afterwards.

The other area on which we have focused attention is bite percentages or bite ratios. As noted above, the LASD, since 1992, has a cumulative ratio of about 24 percent. As we have noted in the past, this ratio is higher than it should be although it is still comfortably below the 30 percent figure that some experts believe separates responsible from irresponsible programs.

We have made an effort to understand how the bite ratios are computed by the LASD and by police departments with similar canine programs. For example, we took a look at a small sample of arrest reports in instances where the Department claimed a canine deployment and an apprehension in order to test whether the canine was sufficiently involved in the apprehension to justify the inclusion of the apprehension in calculating the bite ratio. Our sample was admittedly small, and we thus disclaim that our findings to date are in any way definitive. That being said, although we found one instance where we would quibble, in general we found the Department acted appropriately in classifying incidents as apprehensions for purposes of calculating the bite ratio.

We also probed to understand why the bite ratio might vary significantly between police agencies. A bite ratio is calculated on the basis of bites per apprehensions. If 500 suspects are apprehended when dogs are deployed 2000 times and 100 of the suspects are bitten, then the bite ratio is 100/500 or 20 percent. But if 1000 suspects are apprehended when dogs are deployed 2000 times and 100 suspects are bitten, the bite ratio is 100/1000, or 10 percent. The difference between the bite ratios reflects that one agency is much more adept at apprehending suspects than is the other. But it still leaves essentially unanswered the question why one agency can apprehend twice as many suspects and yet not have twice as many bites.

At the instance of a highly regarded, newly-appointed Chief with responsibility for the operations of the SEB, a fresh look is being taken at the LASD canine program. We have a high degree of confidence that the Chief will pursue the issues with rigor and come to the right results. We acknowledge (and welcome) a heightened degree of scrutiny with respect to individual handlers initiated by the Chief.

We will thus want to revisit the canine issues with care in future reports. We have every expectation that within the next few months the leaders of Field Operations Region III will: (i) conduct a rigorous study of existing staff, including the merits and demerits of existing supervisory personnel and individual handlers; (ii) consider how to allocate responsibilities in SEB so that there is a sergeant at every deployment and a lieutenant to approve waiver of announcements pursuant to careful guidelines; (iii) determine why the number of apprehensions per deployment is somewhat low and what can be done about it; (iv) devise a specific program to get the bite ratio down; and (v) demonstrate a significant drop in the bite ratio between now and our next Report.





## 7. Recruitment & Hiring

The County Board of Supervisors authorized the Sheriff's Department to hire 600 new deputy sheriffs during the period from July 1, 1994 to June 30, 1996. Nearly half of those newly authorized deputy trainees began instruction at Star Center, the Sheriff's Department Academy, during the past six months.

At the time of our **Third Semiannual Report**, only 95 trainees had been hired from among applicants initially contacted after the Recruiting Unit was reactivated in 1994, and we were generally pleased with the Department's efforts to attract and hire a diverse group of trainees. Table 1 shows the demographic breakdown of academy classes 285, 286, 287, 288 and 289. These five classes are the result of the Department's new recruiting efforts since it reactivated the Recruiting Unit in 1994. Table 2 breaks out academy classes 287, 288 and 289, which include all hires to date to be applied toward the 600 new deputy positions.

The increased numbers of new recruits and hires now allows us to focus more clearly on the Department's recruitment.

This Chapter takes a look at the Department's successes in the area, as well as a few deficiencies — most glaring in the area of recruiting women and Asian-Americans.

In June 1995, the Department adopted a new affirmative action plan for the period from July 1, 1994 to June 30, 1996 and covering the hiring and promotion of women and ethnic minorities for all sworn and civilian positions in the Department. The goal of the plan is to hire women and minorities at the rate

1 Demographics of Academy Classes 285 thru 289			
	Male	Female	Total
Caucasian (49.9 percent)	186	44	230
Latino (33.8 percent)	117	39	156
African American (11.5 percent)	34	19	53
Asian American (3.0 percent)	11	3	14
Filipino (1.3 percent)	4	2	6
Native American (0.2 percent)	1	0	1
Other (0.2 percent)	1	0	1
Total	354 (76.8 %)	107 (23.2 %)	461

Demographics of Academy Classes 287 thru 289

	Male	Female	Total
Caucasian (47.9 percent)	111	26	137
Latino (36.4 percent)	75	29	104
African American (11.2 percent)	21	11	32
Asian American (2.8 percent)	6	2	8
Filipino (1.4 percent)	2	2	4
Native American (0.0 percent)	0	0	0
Other (0.3 percent)	1	0	1
<b>Total</b>	<b>216</b> (75.5 %)	<b>70</b> (24.5 %)	<b>286</b>

women and minorities are available in each "feeder" group for each position. For example, the feeder group for the position of deputy consists of members of the civilian work force in Southern California.

The Department's goal is 260 women for the 600 deputy positions available. The goal for Latinos is 208 of the 600 deputy positions available. For Asian-Americans, it is 45; for Filipinos, 17; and for Native Americans, 2. For African-Americans, the goal is 58.

The Recruitment Unit continues to implement innovative methods to attract diverse recruits, and we continue to support the Department's use of affirmative action committees, visits to events and venues which attract members of under-represented groups, and the establishment of mentoring programs, all of which we discussed in our **Third Semiannual Report**. We now take a look at the Department's efforts with respect to African-Americans, Latinos, Asian-Americans, gays and lesbians, and women. The picture is mixed — there are some outstanding successes, and a few areas where the Department should do better.

## Women

The Department's current plan calls for hiring 260 women for the 600 available deputy trainee positions. Thus far, only 70 of the 286 hires have been women. The Department therefore has its work cut out for it. Recent studies by the Department — including the work of the Department's Gender Equity Committee — have focused on

recruitment of women. We were disappointed and surprised at the complacent attitude displayed by this Committee with regard to recruitment of women.

A good example of the foregoing was the Committee's approach to a recommendation that the Sheriff's Department develop and implement a major recruitment advertising campaign focused on hiring women, a recommendation with which we agree. The response of the Committee was dismissive and self-congratulatory:

*The Sheriff's Department's recruitment goal remains to hire the best qualified men and women, while increasing its diversity to be more representative of the community it serves.*

*The Department has been successful with its current recruitment efforts in attracting women applicants. For example, almost 21% of 1600 applicants who recently passed the written examination are women and 20% of cadets presently in the Academy are women.*

*With the Department's success in recruiting women, it does not appear that a major advertising campaign, and the expense that accompanies it, is necessary at this time. However, the Department is continuing to look at creative ways to attract more women applicants. Gender Equity Committee Report, p. 18.*

With all due respect, this response is inadequate. Although we do congratulate the Department on getting the percentage of female cadets in the Academy to 20 percent, the Sheriff's Department's current overall demographics show that women constitute only 13 percent of the Department and only 13.6 percent of the deputies. Women comprise only 4 percent of Deputy IV positions, 9.7 percent of sergeants, 7.3 percent of lieutenants, and 10 percent of captains. The last five Academy classes had only 107 women out of 461, and 70 of them were in the last three classes. **These are hardly numbers to brag about; they should be cause for concern.** Admittedly, the Department has improved substantially in terms of recruitment of women, and, as we

have noted and applauded in the past, there are more women in upper management of the Sheriff's Department — including a Chief — than in many, if not most, major urban police departments.

On the other hand, the statistic that the Department is only 13 percent women is worrisome. Nationwide, in 1993, women already comprised 16 percent of all police and detectives, and 19.5 percent of all sheriffs and bailiffs for the same period, according to the U.S. Bureau of Labor Statistics. The Department lags behind the national average. The tone of the Gender Equity Report should have been one of urgency and concern: How can this Department move in a responsible way to substantially increase the number of women at all levels of the Department as quickly as possible?

A word should be said about our attitude toward the statistics. We do not necessarily look at labor force percentages as talismanic. At best, all they say is that further questions need to be asked to account for variations. Employment patterns which duplicate exactly the patterns in the available labor force do not perforce mean that it is a perfect world. The numbers are only a starting point for further inquiry. The real questions should be: What is it about law enforcement that fails to attract women in the same numbers as other public service jobs? Is it a harder field for women, and if so why? How many of the difficulties can be ascribed to prejudices or outmoded attitudes? How can we make law enforcement more appealing as a career for women?

A couple of paragraphs ago, we described one item in the Report of the Gender Equity Committee in harsh terms. Lest it be concluded that we thought badly of the entire Report, let us say outright that we do not. Overall, it is a fine job, and its recommendations should be immediately implemented, all as we describe in greater detail in the next Chapter.

### **African-Americans**

Thus far, 32 African-Americans have entered in academy classes 287 through 289 (11.9 percent of the trainees). In spite of the favorable numbers during the past year, there

appears to have been a recent drop off in the number of African-Americans being brought into the Department. African-Americans were under-represented in both the most recent academy class and the most recent written examination, and the Recruitment Unit is concerned about the noticeable drop off.

The higher numbers for the earlier classes may be the result of the hiring freeze which existed during 1992 and 1993: When recruiting began again in 1994, a large backlog of African-American candidates had built up during the years of the freeze. The Department has now absorbed qualified candidates from that pool and thus must work harder to attract a new group of African-Americans. The Unit is setting up more testing opportunities in African-American neighborhoods, visiting targeted events and venues, and advertising in African-American publications.

In addition to the difficulty the Department faces in bringing African-Americans into the initial recruiting process, African-Americans are also being disqualified during the pre-academy selection process at greater rates than either caucasians or Latinos, although the relatively small number of African-Americans entering the process makes comparisons unreliable at best. As the recruiting process continues during 1995 and into 1996, and the numbers of each minority group entering the pre-academy selection process grows, we will be able to take a closer look at each step to determine if the process is differentially impacting African-Americans, and if so, why that is the case.

## **Latinos**

The Department has been having more success lately attracting qualified Latinos, who now make up at least 25 percent of each academy class. For classes 285 through 289, Latinos constituted 33.8 percent of the trainees, close to the percentage of Latinos in the County's civilian work force. We commend the Department for its successes in attracting Latino candidates, and encourage the Recruiting Unit to keep up the good work. We nonetheless point out that the Department still has a long way to go

— Latinos are more than 30 percent of the civilian work force in the County of Los Angeles and account for only 18.6 percent of sworn personnel in the Department. Only 14 percent of the sergeants, 9.4 percent of the lieutenants, and 8.3 percent of the captains are Latino.

### **Asian-Americans**

Asian-Americans remain one of the most problematic groups for the Recruiting Unit. Making up 7.5 percent of the civilian work force, Asian-Americans still constitute only 2.3 percent of the sworn personnel in the Department and only 3 percent of the members of Academy classes 285 through 289. Nevertheless, the Recruiting Unit continues to seek new ways to make contact with the Asian-American population. Asian-American females are viewed by the Recruiting Unit as the biggest challenge of any group. For the first time in years, two Asian-American women are in the same academy class, No. 288. The Department has a long way to go before it can be satisfied with its recruitment efforts for Asian-Americans.

### **Lesbians and Gays**

As a preface to our discussion of specific recruiting issues, it is important to emphasize the degree to which the Department has made real strides forward in demonstrating symbolic support for its own gay and lesbian officers and showing it at the Department's highest level. The Christopher Street West gay pride celebrations took place over the weekend of June 24, 1995 in West Hollywood. On Sunday of that weekend, there was a heavily attended parade, the most public event in the festivities.

For the first time ever, Sheriff Sherman Block participated in the parade, riding in an open car driven by Commander Rachel Burgess, the former captain of the West Hollywood station. The current captain of the West Hollywood station, Captain Richard Odenthal, also rode in the parade.

With the permission of the Department, two gay deputies, both in uniform, marched as part of a contingent of seven peace officers carrying the colors and opening the parade. Two openly gay deputies in uniform handed out materials about the Sheriff's Department on each of the two days of the celebration from a community-relations booth.

The presence of Sherman Block in the parade, and the sense of acceptance and tolerance communicated by his actions were seen by gay and lesbian deputies as supportive and comforting steps. Indeed, two deputies — a man and a woman — “came out” after seeing Sherman Block at the event. Although still only a handful, the numbers of openly gay and lesbian deputies has increased substantially in the last three years.

We noted in our **Third Semiannual Report** that the Department had established an active recruiting presence in the City of West Hollywood, pleasing the City Council and members of that community. City officials were delighted that the Department had taken an interest in recruiting in West Hollywood, including among members of the gay and lesbian community and the Russian immigrant community. The Department had used an openly gay deputy to make these inroads.

While relations between the Department and the City of West Hollywood, one of its most important contract cities, continue to improve, as evidenced by a highly successful community policing program that was featured recently in the Westside edition of the Los Angeles Times, some city officials still express some disappointment at what they see as the Department's inconsistent commitment to encourage gays and lesbians to apply for new hires. The Department has apparently not yet activated a toll-free phone number that West Hollywood officials had been promised in order to help attract members of the gay and lesbian community, and, in spite of indications that it has plans to advertise in gay and lesbian publications, as does the LAPD, the Department has not yet done so. We encourage the Department to continue working closely with the City of West Hollywood and its Public Safety Committee on these issues.



We also wish to report that cultural sensitivity training within the Department on gay and lesbian issues is going well. We congratulate the Department for its intelligence in using its own gay and lesbian sworn personnel to teach the classes. On the whole, there has been welcome movement on gay and lesbian concerns by the Department, particularly by highly-placed executives demonstrating tolerance and support. We will follow the progress in this area with interest.

## **8. Status of Women in the Department**

Our **Third Semiannual Report** commenced a review of the status of women within the Sheriff's Department. We continue that review in this **Report**. The most important development over the last six months is the issuance by the Department's Gender Equity Committee of its lengthy report. In this chapter, we will review the recommendations of that Committee. We will then look at the topic of promotions and comment upon the imbalanced distribution of women in the Department. We will also report on current steps to implement the Bouman consent decree and describe the Department's current efforts to deal with sexual harassment issues.

### *The Gender Equity Committee Report*

In September 1994, the Sheriff formed the Gender Equity Committee to review 180 recommendations that had been made to the Los Angeles Police Commission by the Women's Advisory Council. The recommendations were made to facilitate implementation of Christopher Committee recommendations and City Council directives to eliminate sexual harassment and achieve gender balance within the LAPD.

The Gender Equity Committee assessed the applicability of the recommendations to the Sheriff's Department and analyzed their potential value. Just as the Department at an earlier time had analyzed the applicability of the Christopher Commission recommendations to the Department, the Committee went carefully through each recommendation and considered whether the Committee agreed or disagreed with the specific recommendation. In some instances, the Committee made its own recommendation to the Department.

The Gender Equity Committee, composed of 19 members, was chaired by Commander Carole Freeman and included 2 captains (both female), 12 lieutenants, (9 male and 3 female), 1 female sergeant, and 3 civilian professionals, 2 of whom are male.

The Report is both politic and polite. It appears to have been written for two audiences: one external to the Department, and one internal. Accordingly, perhaps for public consumption, the Report is quick to point out all the ways in which the Department considers itself to be in the forefront, and the Report is generally laudatory (at times self-congratulatory) about the Department's efforts to attend to issues facing women in policing. Many of the passages in the Report seem to have been written defensively to counter criticisms that have been made against the Department. Other passages seem to have been crafted to anticipate and head off expected criticisms or objections. In this sense, for purposes of public consumption, the Report is more of an apologia than a critique. **The Report was calculated to put the Department in the best possible light. That is not to say that the Department is unworthy of praise — it should be complimented for the strides it has made on women's issues. But it should not be complacent by any means — it is not quite halfway there yet.**

For purposes of internal consumption, the Report is polite and restrained. That, also, we found quite telling: the delicacy with which suggestions are couched, and the tact with which criticisms are made, and the paucity of urgent recommendations speak volumes about what it must be like to be an officer in the unenviable position of suggesting to her superiors (almost all male) that all is not necessarily Edenic for Eve in the LASD.

Nonetheless, we inferred from the occasional passages in extra heavy boldface type that the Committee probably thought those areas were a real problem. It is also telling to see what the Committee recommends the Department do in the areas of recruitment, promotions and assignments, sexual harassment, and in responding to domestic violence calls. The principal recommendations in each of these areas are described below.

## **Recruitment**

Although it is never said in so many words, the Committee makes a number of

recommendations that imply that the Department is not doing as well as it should in terms of recruiting women and getting them into the Department. The Committee recommends updating recruiting materials to stress abilities in problem-solving, communication, community involvement, self-control under stress, and good judgment: code words for those areas in which women are perceived differentially to excel. The Committee also recommends the Department consider internship programs which identify women while still in high school and follow them through two years of college, after which they receive an offer to join the Department.

**Most importantly, the Committee recommends that pass rates on Department tests and evaluations be monitored for adverse gender-related impact and that formal validation studies and fairness analyses of applicant tests be performed, including validating some of the physical ability tests that appear to disproportionately disqualify women. We strongly agree. The Committee also recommends that applicants be screened for non-payment of spousal support or child support obligations: i.e., eliminate men who are frivolous or cynical in their attitudes toward obligations to women.**

### **Promotions and Assignments**

Although not said directly, the Report gives more than a hint of strong dissatisfaction with promotional opportunities for women: The Committee recommends that the Department should conduct a study to identify "coveted positions" and should pay particular attention to opportunities for increasing the number of women in such positions. The promotional exam processes should include a specific review for content that might negatively impact women.

**Most importantly, the Committee states that "audits should be conducted to ensure that gender, racial, or other bias is not a limiting factor in the assignment of women and minorities to coveted positions. The personnel evaluation process**

**should be reviewed to ensure that bias does not exist." We strongly agree.**

Among other things, Bonus Selection standards should be reviewed and revised. As we discuss later in this Chapter, there are still no women in the Special Enforcement Bureau. Women are under-represented in certain patrols stations and regions.

### **Sexual Harassment**

The Report hints that more attention should be paid to the issue of sexual harassment and suggests that it, or other forms of discrimination against women, may be causing the Department to lose women: **"Exit interviews should include asking departing employees if they are willing to have a confidential interview . . . to ascertain if harassment or discrimination played a part in their departure."** We agree. The Committee is supportive of additional staffing, at the appropriate time, for the office of the Ombudsperson which handles sexual harassment and discrimination claims.

### **Domestic Violence**

The Report makes a number of excellent suggestions to improve the way domestic violence calls are handled. Additionally, the Committee recommends that a training course should be provided annually to lieutenants **"incorporating domestic violence and its related risk management issues."**

On the whole, the Report is a good one. Its recommendations should be immediately implemented. We were disappointed to see that the Committee gave its report last January and then apparently was disbanded. We recommend that someone at the highest level of the Department be asked to quickly implement the recommendations of the Gender Equity Committee.

1

**Los Angeles County Sheriff's Department Breakdown of Sworn Personnel by Rank, Sex, and Ethnicity as of May 23, 1995**  
(FTO Breakdown as of June 8, 1995)

Class	Total	Male	Female	Caucasian	African American	Hispanic	Native American	Asian	Filipino	Other
Sheriff	1	1 100%	0%	1 100%	0%	0%	0%	0%	0%	
Undersheriff	1	1 100%	0%	1 100%	0%	0%	0%	0%	0%	
Asst. Sheriff	1	1 100%	0%	1 100%	0%	0%	0%	0%	0%	
Chief	8	7 87.5%	1 12.5%	6 75.0%	1 12.5%	1 12.5%	0%	0%	0%	
Commander	18	15 83.3%	3 16.7%	14 77.8%	1 5.6%	3 16.7%	0%	0%	0%	
Captain	50	45 90.0%	5 10.0%	43 86.0%	1 2.0%	5 10.0%	0%	1 2.0%	0%	
Lieutenant	289	268 92.7%	21 7.3%	235 81.3%	26 9.0%	24 8.3%	0%	3 1.0%	1 .3%	
Sergeant	929	839 90.3%	90 9.7%	765 82.3%	58 6.2%	87 9.4%	1 .1%	18 1.9%	0%	
Deputy IV	85	81 95.3%	4 4.7%	60 70.6%	12 14.1%	12 14.1%	0%	1 1.2%	0%	
Deputy	6525	5638 86.4%	887 13.6%	4343 66.6%	680 10.6%	1293 19.8%	6 .1%	154 2.4%	39 .6%	
Deputy Trainee	206	163 79.1%	43 20.9%	97 47.1%	16 7.8%	82 39.8%	1 .5%	8 3.9%	2 1.0%	
<b>Totals</b>	<b>8113</b>	<b>7059 87.0%</b>	<b>1054 13.0%</b>	<b>5566 68.6%</b>	<b>805 9.9%</b>	<b>1507 18.6%</b>	<b>8 .1%</b>	<b>185 2.3%</b>	<b>42 .5%</b>	<b>0%</b>
FTO	207	198 95.7%	9 4.3%	157 75.8%	10 4.8%	38 18.4%	0 0.0%	1 .5%	1 .5%	0%

2

**Los Angeles County Sheriff's Department Breakdown of Sworn Personnel by Division, Sex, and Ethnicity as of June 1, 1995**

Division	Total	Male	Female	Caucasian	African American	Hispanic	Native American	Asian	Filipino
Executive	50	39 78.0%	11 22.0%	39 78.0%	3 6.0%	6 12.0%	0%	1 4.0%	0%
Admin. Services	68	53 77.9%	15 22.1%	54 79.4%	8 11.8%	6 8.8%	0%	0%	0%
Court Services	1481	1229 83.0%	252 17.0%	852 57.5%	298 20.1%	285 19.2%	1 .1%	24 1.9%	17 1.1%
Prof. Standards & Training	495	389 78.6%	106 21.4%	293 59.2%	67 13.5%	112 22.6%	1 .2%	17 3.8%	3 .6%
Custody - South	2234	1917 85.8%	317 14.2%	1535 68.7%	175 7.8%	451 20.2%	3 .1%	54 2.5%	14 .6%
Custody - North	46	36 78.3%	10 21.7%	36 78.3%	1 2.2%	8 17.2%	0%	1 2.2%	0%
Detective	488	421 86.3%	67 13.7%	353 72.3%	39 8.0%	93 19.1%	0%	2 .4%	1 .2%
Field Operations Region I	1117	1016 91.0%	101 9.0%	880 78.8%	35 3.1%	180 16.1%	1 .1%	18 1.7%	2 .2%
Field Operations Region II	1024	940 91.8%	84 8.2%	688 67.2%	130 12.7%	167 16.3%	0%	38 3.7%	1 .1%
Field Operations Region III	1076	982 92.2%	84 7.8%	828 77.0%	47 4.4%	177 16.4%	2 .2%	18 1.7%	4 .4%

## *Promotions of Women and Distribution of Women*

Table 1 breaks down the Department's sworn personnel by rank, sex, and ethnicity as of May 23, 1995 with Field Training Officer ("FTO") statistics as of June 8, 1995.

Table 2 breaks down the Department's sworn personnel by division, sex, and ethnicity as of June 1, 1995.

At the time of the **Koits Report** in July 1992, women comprised 12.5 percent of the force. In August 1993, women comprised 12.4 percent. In March 1994, 12.3 percent. In October 1994, 12.7 percent. In May 1995, 13 percent. The percentage of women has remained static. The statistics are somewhat deceptive, however, because it must be kept in mind that the Department was under a hiring freeze during 1992 and 1993 and only began recruiting again in 1994. Nonetheless, the numbers are not very good. As pointed out in the last Chapter, women nationally comprise 19.5 percent of all sheriffs and bailiff personnel and over 16 percent of all police officers and detectives. As of October 1994, the LAPD had more women in absolute numbers and as a percentage of the force than did the LASD. **The Sheriff's Department has a lot of work ahead of it just to catch up with the national averages.**

At the time of the **Koits Report** in 1992, 9.5 percent of the sergeants in the Department were women. As of May 1995, the percentage is 9.7. In 1992, 22 out of 310, or 7.1 percent of the lieutenants were women. In 1995, 21 out of 289, or 7.3 percent. In 1992, there were 5 women among the 57 captains. In 1995, there are 5 women among the 50 captains. In 1992, 2 out of 18 commanders were women; in 1995, 3 out of 18. There is now one Chief of eight who is a woman. The numbers would indicate that the Department is not making speedy progress in promoting women. Granted, the Department as a whole has been static because of the hiring freeze and the inability to bring in new people at the bottom and move others up.

The chances for a significant number of women to be promoted to higher ranks

will remain low so long as there are few women in coveted positions in the Department, including few women FTOs. As Table 1 shows, only nine of 207 FTOs, or 4.3 percent, are women. To be sure, the numbers are a significant increase over October 1994, when there was only one woman FTO out of 81. The FTO position has traditionally been seen as beneficial for promotion to sergeant. While being an FTO is not a requirement for promotion, Department personnel tell us that being an FTO provides a deputy with the wider range of experience helpful for success on the sergeant's examination. Ethnic minorities are also under-represented in the FTO category, but not to same extent as women.

Members of the Department have given us many reasons why women are under-represented in the FTO category: The number of women is small to begin with; the demand for women is high for all positions in the Department; some women prefer to look for coveted positions with normal hours, such as positions at headquarters, in the narcotics divisions, and in court services. As one member of the Department told us, "Women sharp enough to be FTOs get plucked by other units." Nevertheless, **we remain very concerned that women are not being used adequately as FTOs, both because of the lost experience and because new trainees on patrol are not being trained by persons representing the gender diversity of the Department.**

We have similar concerns with respect to other coveted positions. There are still **no women at all in the Special Enforcement Bureau**, for example. We will continue to address the issue of women and coveted positions in future reports.

We are also concerned about the distribution of women and other under-represented groups throughout the different divisions and bureaus within the Department. We are most concerned with the representation of women and minorities in the three field operations divisions, the divisions having the most direct contact with the public. As Table 2 shows, both women and minorities, but particularly women, are under-represented in the field operations divisions. Women make up only 269 (or 8.36 percent) of the 3217 sworn personnel in such divisions. The Detective Division is 13.7 percent



women. Within that Division, there are units where women are somewhat better represented. For example, the Homicide Unit currently has 92 investigators, 14 of whom are women (15.2 percent), including three sergeants. Women make up more than 20 percent in Administrative Services, the Executive division, Professional Standards and Training, and one of the custody divisions.

Again, we are told that the low percentage of women is to some degree the result of self-selection; that it is somewhat harder to entice women to work in areas where there are night shifts and irregular working hours. We intend to study this matter further.

### *The Bouman Consent Decree*

The consent decree resulted from the case of Bouman et al. v. Block et al. The parties in that case entered into a Third Amended Consent Decree in August 1993 that set forth detailed requirements for the Department to follow in its hiring and promotional practices in general and with respect to promotions to the rank of sergeant in particular. It also required implementation and enforcement of a sexual harassment policy. In other provisions, the Department agreed to increase opportunities for advancement of female deputy sheriffs, minorities, and others.

Since our **Third Semiannual Report**, the quarterly Joint Status Reports filed by the Department reporting on the Department's efforts to comply with the Judgment, Consent Decree, and other orders in the Bouman v. Block case, and the Department's monthly reports on promotions, indicate that the Department has made some progress in dealing with outstanding issues of compliance, with delays largely, though not wholly, attributable to fiscal constraints.

### **Sexual Harassment Policy**

Although the Department agreed with the Bouman plaintiffs in the Joint Report in October 1994 that the recently issued policy did not meet state and federal law

requirements, the Department has not yet revised the policy to correct the deficiencies. Over eight months have passed since the Department agreed to revise and republish the policy. The lengthy delay in revising the policy is disturbing if it reflects the Department's flagging commitment to complying with the Judgment and Consent Decree as a whole.

### **Promotions to Sergeants**

Since the last report, an additional 35 appointments to sergeant were made as of April 30, 1995. The Department, therefore, has made approximately 200 of the anticipated 250 appointments to sergeant. Promotions continue to be slow due to County budget problems.

### **Next Sergeant's Examination**

Because the existing eligibility list remains in use, no new examination has yet been developed and no examination has been scheduled. The Department anticipates a new examination will be given in the fall, subject to the approval of the exam by the federal court. We recommend that the Department follow the recommendation of its own Gender Equity Committee in reviewing any potential sergeants' exam for "stereotypes and other content that might negatively impact women."

## *Sexual Harassment*

### **Mandated Training**

Sexual harassment and cultural awareness training of Department personnel continues. During the fourth quarter of 1994, the Training Bureau reports that 1595 Department members, consisting of 781 deputies, 230 sergeants, 64 lieutenants, one captain, 305 civilians, and 214 civilian supervisors, received sexual harassment training. Additionally, 241 deputies and 114 civilians received cultural awareness training in the fourth quarter.

In the first quarter of 1995, the Training Bureau conducted sexual harassment training for 983 deputies, 269 sergeants, 76 lieutenants, one captain, 606 civilians, and 96 civilian

supervisors, or a total of 2031 Department personnel. In the first quarter of 1995, 264 deputies, 37 sergeants, four lieutenants, and 184 civilians received cultural awareness training.

All Department executives have received eight hours of sexual harassment training, and as of April 18, 1995, they have also received eight hours of cultural awareness training. The sexual harassment training for Department executives apparently differs significantly in content from the training given to other personnel. It has been suggested that a refresher course be given for executives, incorporating the newer materials taught to other personnel; we agree. The six-hour sexual harassment training session for supervisors that began in 1994 continues, as noted by the statistics above. An eight-hour cultural awareness training for supervisors will commence in July 1995.

### **Budgetary Constraints**

In March 1995, the Department issued guidelines regarding training days and overtime curtailment. Evidently, the vacancies created by training program attendance caused budgetary concerns because of the overtime expenditures. As a result, cultural awareness and sexual harassment training were to be available only to those personnel who could attend without necessitating the expenditure of overtime.

Representatives of the Mandated Training Unit stated that the budgetary constraints have affected the class size of the sexual harassment and cultural awareness training programs. They also expressed concern regarding the completion date of December 31, 1996 should the financial constraints continue. We and the Training Unit are hopeful that the Department's new fiscal year, which begins on July 1, 1995, will bring increased program attendance. As in the past, we continue to be advocates of additional County funds for training purposes.

## **Critique of Sexual Harassment Training for Supervisors**

During this reporting period, we were fortunate to attend a six-hour sexual harassment training session for Department supervisors. **We commend the Department with regard to the quality of this program.** We are impressed with the knowledge and presentation of the trainers from the Training Bureau, as well as the materials that are utilized, including a workbook, videotapes, group discussions, awareness pre-tests and post-tests, and course evaluations.

We understand that, other than the sexual harassment training mandated above, no additional training is presently required for Department personnel. The Training Bureau has stated that further sexual harassment training is "strongly encouraged" and that the Bureau is trying to require recurrent briefings on sexual harassment. We continue to encourage exposure to sexual harassment training in a variety of professional contexts. Briefing sessions within any given station or unit provide the ideal opportunity for reinforcement of Department policy and procedure, even if only for 20 or 30 minutes, at very little cost.

## **The Ombudsperson and Career Resources Center ("OCRC")**

During the fourth quarter of 1994, the OCRC received one complaint of quid pro quo sexual harassment, 12 complaints of hostile environment sexual harassment, and one complaint of retaliation for complaining of sexual harassment. The quid pro quo complaint was referred to IAB for investigation, as were seven of the hostile environment complaints and the one retaliation complaint. Six hostile environment complaints were resolved informally. The OCRC also received three complaints of gender discrimination and one sexual orientation complaint in the last quarter of 1994, all of which were resolved informally.

During the first quarter of 1995, the OCRC received one quid pro quo sexual harassment complaint, which was referred to the Division Chief. Twenty hostile

**Types of Allegations  
Received by the OCRC  
October 1994 through March 1995**

**Sexual Harassment**

Quid Pro Quo	2
Hostile Environment	32
Retaliation	4

**Other Discrimination**

Gender	5
Ethnic	17
Sexual Orientation	3
Age	0
ADA/Disability	4
Pregnancy	3
Other	18

<b>Non-Discrimination</b>	<b>16</b>
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environment sexual harassment complaints were received in the first quarter, with ten of the complaints being resolved informally and ten complaints being referred to IAB for investigation. Additionally, three claims of retaliation were made and referred to IAB. The OCRC also received in the first quarter two gender discrimination complaints; one was resolved informally and the other was referred to IAB for investigation. Two sexual orientation complaints were made; one was referred to IAB and the other is still pending. These statistics are summarized at Table 3.

The OCRC began tracking sexual harassment retaliation complaints in the fourth quarter of 1994, and those statistics are referenced above. We are unable to comment definitively with regard to the OCRC's timeliness in disposing of sexual harassment complaints because the OCRC does not keep such statistics. Informal resolutions, however, usually are reached within one month of receipt of the complaint. During the initial interview, the OCRC can typically determine whether the IAB should be involved in the investigation. We recommend that the OCRC implement a method of recording the time involved between receipt of a complaint and disposition either by the OCRC informally or referral to the IAB.

The OCRC stated that sexual harassment complaints are still on the rise, but that the numbers have somewhat stabilized. The OCRC has not seen the rapid increase in complaints that it did in the third quarter of 1994. The continued rise in the number of complaints to the OCRC is attributed to the fact that all complaints are, under the new sexual harassment policy, to go directly to the OCRC.

## **Internal Affairs Bureau**

From September 9, 1994 through March 31, 1995, the IAB opened 15 new investigations involving sexual harassment allegations. Eight of these files are pending and were therefore unavailable for review. Of the seven new files we were able to review, the cases were disposed of as follows: one was unresolved; one was unfounded; one was founded; one was closed because the complainant wanted informal resolution of the matter; and three are pending, with the investigation having been concluded, but no decision yet made regarding disposition. The founded case involved a female sworn complainant and a male sworn subject and a complaint of physical touching.

Additionally, IAB opened eight new files from September 9, 1994 through March 31, 1995 involving possible violation of Department policy regarding conduct towards others/harassment. Five of these files were unavailable for review. Of the three files we did review, two were closed: one because the claimant chose not to pursue the matter and one because it was determined there was no basis for further review. The third matter has been investigated by IAB and is pending disposition.

We also reviewed six files involving sexual harassment allegations that were previously unavailable to us, wherein the cases were disposed of as follows: two were unresolved; two were unfounded; one was founded; and one was unfounded as to three individuals and founded as to one other individual. The founded case involved a sworn male supervisor who made sexually oriented comments in the presence of female subordinates.

Our review of these IAB files generally supported the discipline, or lack of discipline, imposed by the Department. We recommend that when a case is unresolvable (because it, typically, involves one person's word against another's, with no witnesses), both parties should again be advised of the Department's policy against sexual harassment and receive another copy of the policy.

Our review of the IAB files also revealed some concerns regarding the timely disposition of sexual harassment cases. Pursuant to the Department's policy, IAB is to complete its investigation within 90 days of receipt, and the case is then to be disposed of by the unit commander within 40 days. We noted several instances where these guidelines were not met. While on a case-by-case basis there may be a valid explanation for these delays, timeliness is a real issue. We learned that IAB does have a system of tracking the progress and disposition of its files. This system must be used and/or improved.

## 9. Advocacy & Civil Service

When the Sheriff's Department determines to impose a disciplinary suspension of more than five days or to terminate employment, the employee has the right to seek review from the County's Civil Service Commission. Each of our prior Reports attempted to assess why the Department was having difficulty convincing the Civil Service Commission to uphold the Department's decisions to discharge officers or to impose substantial discipline for misuse of force. We have observed from the time of the Koits Report that in general the Department suffered more reversals of discharge decisions by the Commission in the area of force than in other areas.

There has not been a sufficient number of force cases reviewed by the Commission in the last six months either to modify or sustain that observation.

As we have done previously, Table 1, with our footnoted caveats and qualifications, presents information about the results of Commission actions. Table 1 sets forth updated information about Commission decisions from 1992 through May 20, 1995. As we have done in previous Reports, we caution against reading more into the statistics than may be there: because we are dealing with relatively small numbers of matters, any changes may create large swings in percentages.

1

1992 - 1995 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	181 (100%)	87	22 (25%)
Force Related	49 (27%)	28	12 (43%)
Fraternalization	24 (13%)	15	0 (0%)
Performance	25 (14%)	12	4 (33%)
Off-Duty Conduct	17 (9%)	10	2 (20%)
Exam Appeals	15 (8%)	n/a <sup>5</sup>	2 of 10 (20%)
False Reporting	10 (6%)	4	2 (50%)
Theft	6 (3%)	6	2 (33%)
Sexual Harassment <sup>6</sup>	9 (5%)	6	0 (0%)
Miscellaneous	26 (15%)	6	0 (0%)

<sup>1</sup> 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.

<sup>2</sup> The number and percentage relates to all disciplinary actions—exam appeals, suspensions over five days and discharges—that reached the Civil Service Commission from 1992 through May 20, 1995. These figures include some actions initiated in 1991 and pending actions that are either awaiting hearing or Commission consideration of Hearing Officer recommendations. Not included are 10 cases in which prosecution of deputies for criminal conduct is ongoing (two of these are for on-duty use of force). In these cases any appeals are held in abeyance pending resolution of the criminal case and the deputy is placed on leave without pay.

<sup>3</sup> The right two columns look only at discharge actions for which the Commission has made final or proposed findings.

<sup>4</sup> Actions include proposed Commission findings, which could conceivably be changed. Where the Commission reduced a discharge to a suspension, it is counted as a reversal. 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.

<sup>5</sup> "Discharge" is not applicable in the case of exam appeals.

<sup>6</sup> Sexual harassment includes on-duty sexual misconduct towards civilians.



Since our last **Report**, the Commission received 14 new cases from the Sheriff's Department, of which four have already been resolved by way of withdrawal or settlement. Interestingly, only one of the new matters relates to discipline for misuse of force. In the same period, 13 other matters pending before the Commission were resolved. It is heartening to report that the Department was not reversed in any of these matters. In five of the matters, the Department was sustained, including one force case where the initial recommendation of the hearing officer was to reverse. The balance of the matters was disposed of by way of withdrawal or settlement, including one force case. We reviewed the circumstances of these settlements and found the settlements to be reasonable and appropriate.

In previous **Reports**, we detailed our concerns about various features of the disciplinary process, including:

- the undue length of time to complete investigations and Civil Service proceedings;
- lack of coordination between the Internal Affairs Bureau and the Advocacy Unit on disciplinary matters;
- inconsistencies in the imposition of discipline within the Department for similar policy violations; and
- whether the functions of the Advocacy Unit should be supervised by a lawyer with experience in the area instead of by non-attorneys who, although competent and professional, might be at a disadvantage in proceedings in which the other side was represented by competent counsel.

In response to our recommendations and on the Department's own initiative, structural and procedural reforms were adopted. Last year, Cecil Marr, a highly-regarded lawyer who for 15 years represented public sector unions, was employed to serve as the Department's full-time advisor on Civil Service and labor-management issues. Under

Mr. Marr's direction, the Department's Advocacy Unit has continued to implement a number of the Kolts recommendations.

Importantly, the Advocacy Unit now works together with Internal Affairs to draft recommended charges in all instances where the possible discipline is a 15-day suspension or greater. This new link between Internal Affairs and the Advocacy Unit is one which we have strongly recommended and supported. In particular, we wanted the input of the lawyers or advocates in the selection of proposed charges so that the Department proceeded only with its best and strongest claims. We have argued in the past that the absence of such a review by a lawyer, among other factors, contributed to the Department's failure to be sustained on otherwise meritorious cases before the Commission. We have also noted that the Department previously overcharged some cases: good, strong, and sustainable claims tended to be lost among weaker claims. In some instances, too many officers were charged, leading to some confusion. We are heartened that Cecil Marr and the Advocacy Unit are having early input into matters which may wind up before the Civil Service Commission.

Additionally, Cecil Marr is participating in the review of serious cases that come before the commanders' panel. Again, we are strongly encouraged by this. At times, the commanders' panel decides whether to send a particular case to Internal Affairs for a full investigation based upon a prediction of how well the case will stand up before the Civil Service Commission. During our last review, we took exception to the panel's judgment on one particular case where we believed a lawyer's input would have helped the panel understand that the case was stronger than it seemed initially to appear.

Others of our recommendations are being implemented more slowly. We wanted cases assigned to one advocate or lawyer who would follow the case from its inception through the investigation and all the way to the Civil Service Commission, if necessary. Unfortunately, the Advocacy Unit does not have adequate staffing to make this possible.

We also recommended that the Department better use Internal Affairs and the Advocacy Unit as a clearinghouse and source of advice to captains with respect to disciplinary recommendations in order to achieve greater consistency across the board. Our Chapter on Discipline discusses these issues in greater detail. Efforts are also underway to give captains additional training in the disciplinary area. We support those efforts.

We also supported the Department's decision to merge the labor relations and advocacy units. We have the sense that the work in those areas is still somewhat disjointed and that the workload is still too heavy.

In sum, we are beginning to see the effects of greater professionalism in the Department's Advocacy Unit and predict that the Department will begin to fare better as a result with fewer disciplinary determinations reversed by the Commission.

## **10. Citizen's Complaints & The Ombudsman**

A thorough overhaul of the LASD's procedures for handling citizen's complaints, a key goal of the **Kolts Report**, is in progress. The **Kolts** reforms are intended to: (i) eliminate intimidation and discouragement of complainants; (ii) encourage captains to use mediation and similar techniques to reach early consensual resolutions to complaints; (iii) eliminate biased, sloppy, and incomplete investigations; (iv) allow the complainant to track the progress and to have input into the scope of the investigation; and (v) employ neutral and detached persons outside the Department to help assure the integrity of the process, to engender greater trust on the part of citizens, and to conduct a limited, appellate-like review of the scope of the investigation and the result reached.

This Chapter focuses on the role of neutral persons in the process; specifically, the role of the Ombudsman, a newly-created County department head who is specifically charged with (i) making the process for filing complaints easier and less intimidating; (ii) reporting to the citizen about the progress of an investigation of a complaint and its results to the extent permitted by law; and (iii) trying to resolve dissatisfaction by the citizen with the investigatory process or its results. If the Ombudsman is unable to resolve the citizen's concerns informally, he must review the thoroughness of the investigation and the reasonableness of the conclusions reached. He must report the results of his review to the Sheriff for his consideration. In serious force cases, the Ombudsman is obligated to arrange for a review of the case by a member of a panel of judges who have been appointed for that purpose.

The Ombudsman took office in May 1994 and soon thereafter moved to a permanent location in County facilities at 24340 South Narbonne Avenue in Lomita. The following chart summarizes the activities of the Ombudsman since the opening of the office based upon statistical information provided to Special Counsel by the Ombudsman upon Special Counsel's request.

As Table 1 discloses, the number of matters handled by the Ombudsman is fewer in the most recent six-month period as compared to the former. It is also interesting

to note that of the 40 completed investigations reviewed in the last six months, the Ombudsman has not disagreed with the LASD's adjudication of any complaint, and in no instance has the Ombudsman deemed it necessary to communicate in writing with the Sheriff to formally recommend further investigation or re-adjudication of a citizen's complaint. Nor has the Ombudsman yet had occasion to refer a matter to a member of the panel of judges. It is encouraging to see that captains appear to be accepting the Ombudsman's informal recommendations for further investigation.

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**Office of the Ombudsman , May 1, 1994 - April 30, 1995**

	5/1/94 - 4/30/94	10/1/94 - 4/30/95	Total
1 Requests for information	650	510	1160
2 Individuals referred to LASD for purposes of filing a Citizen's Complaint	68	31	99
3 Pre-complaint informal inquiries by Ombudsman		24	
4 Ongoing investigations in which Ombudsman asked to ascertain status	100	7	107
5 Completed investigations reviewed			
• Informal Investigations			
Service Comment Reports	40	34	74
• Formal Investigations			
Unit Level Investigations	45	1	46
Internal Affairs Investigations	3	5	8
6 Cases handled by Ombudsman			
• People completely satisfied	19	18	37
• People satisfied with investigation but disagree with results	14	21	35
7 Informal recommendations to Department that it investigate further	9	9	18
Ombudsmen's informal recommendation followed by Department	9	9	18
8 Number of incidents Ombudsman disagreed with adjudications by LASD that complaint should not be sustained or could not be resolved	5	0	5
9 Number of incidents where Ombudsman informally requested and obtained corrective action		4	
10 Open cases		14	

The Ombudsman reports four instances in the last six months in which the captain initiated some corrective action following contact by the Ombudsman. We asked the Ombudsman what corrective action was taken. We learned that the "corrective action" was that the captain, after the Ombudsman's arm-twisting, agreed to meet with the complainant.

We were surprised that it took the Ombudsman's intervention to get a captain to meet with a complainant. We thought captains had been strongly advised by the Department to take the initiative to meet with complainants early on to resolve complaints before it became necessary to involve the Ombudsman. We do not want to overread what may be four isolated incidents, but we do recommend that the Department monitor to see which captains are using mediation and which are not. Again, those who are not should be strongly encouraged to do so. Chiefs should be holding commanders specifically accountable for those captains who are not following the program on conflict resolution.

In our last Report, the Ombudsman cited nine incidents where would-be complainants were allegedly discouraged or intimidated. Two of those incidents occurred at one particular station in the northern part of Los Angeles County where the complainants were allegedly given the run-around when trying to file a complaint.

This time, the Ombudsman reports fewer such incidents; perhaps no more than two or three. In each, the complainant was assertedly discouraged from filing a complaint, being told, allegedly, in one case that "you have nothing to complain about" and in another case being allegedly asked, "You don't really want to file a citizen's complaint, do you?"

The Ombudsman reported last time that he found himself rebuffed by a couple of captains who were somewhat hostile to the Ombudsman's efforts. Happily, the Ombudsman reports no such findings this time round.

In our last Report, we noted that the statistics kept by the Ombudsman did not square with the statistics kept by the Department with respect to numbers of cases reviewed. Since then, the Department and the Ombudsman have met to try to resolve these discrepancies.

The last time, our audit showed that Department procedures to inform citizens of their ability to consult the Ombudsman were not being adhered to uniformly. The Department has taken steps to address that problem, including Department-initiated auditing and monitoring.

In the last Report, we noted with disapproval a couple of instances where Department personnel tried to exert some undue pressure on the Ombudsman or to dissuade him from reviewing a file. We are happy to report no such incidents in this time review period.

In our last Report, we concluded that we were satisfied that the Ombudsman was off to a good start and that the LASD was adjusting reasonably to his presence on the scene. A year has now passed since the Office of Ombudsman has been in full operation. Much has been accomplished. The Ombudsman and the Department are moving beyond the stage of initial adjustment and appear to be developing a mutually respectful relationship.

That being said, we have some concern that the Ombudsman is being under-utilized, and we are not sure why. We wonder whether the County is doing all it should to publicize the Ombudsman's office and functions. The Department seems to be fulfilling its duty to inform citizens of the existence of the Ombudsman and the citizen's right to seek a review. The Department cannot reasonably be expected to do more than that. It is up to others in the County to publicize the existence of the Ombudsman and to encourage wider utilization of the Ombudsman's services.

We also think that it is time for the Ombudsman to inject somewhat more formality into his dealings with the Department. We envisioned that the Ombudsman would keep a careful record and formally write to the Sheriff when he thought adjudications of citizen's complaints were not properly supported by the investigative record. The process of informing the Sheriff in writing is important: the Sheriff deserves to know when such disagreements have occurred. The Sheriff needs to be fully apprised as an

integral part of the Department's strategy to manage risk intelligently. And it is also important that the operations of the Ombudsman be open to review in a way that informal communication with the Department does not provide.

The informal communications between the Ombudsman and the Internal Affairs Bureau or with captains at various stations have been useful during this first year in order to establish mutual trust, to work out procedures, and to test flexibility on both sides. But it is now time for the Department and the Ombudsman to be on record with respect to recommendations and actions taken on completed investigations.

The Ombudsman plays two different roles. When a citizen's complaint is under investigation and before it has been formally and finally resolved, the Ombudsman, at the instance of a complainant, should monitor the investigation, make suggestions, and use his best efforts to see that the matter is resolved to the mutual satisfaction of the complainant and the Department. At this stage, it is perfectly appropriate and necessary for there to be frequent informal communication, and sustained efforts on the telephone or in person by the Ombudsman to cajole a particular captain or a particular complainant into being more reasonable. The goal is to get the matter resolved early, quickly, and consensually so that the citizen and the Department come away satisfied. These are the classic duties of an ombudsman.

After a citizen's complaint has been formally adjudicated, however, the Ombudsman in Los Angeles County has a different function: he (or a member of the judges' panel in serious force cases) is to pass upon the adequacy of the investigation and express his disagreement with results so that the Department can have a final opportunity to focus on the particular citizen's complaint. The overall goal is to resolve as many complaints as possible before they become lawsuits or a source of friction or tension between the Department and the communities it serves. Another equally important goal is to give the Department a last chance to make sure its investigative files are full, complete, and adequate to defend the Department if litigation were to



ensue. The final goal is to increase public confidence that the Department is dealing squarely and fairly with citizen's complaints. That confidence rests in part on how the Department deals with citizens and in part on how the Department and the Ombudsman and judges' panel deal with each other.

This requires that the Ombudsman communicate with the Department at its highest levels, and informal communication at this point is not adequate. Accordingly, we recommend that the Department and the Ombudsman formalize procedures in this regard.